

NOTICE

Municipal Services Committee
Regular Meeting
Tuesday, January 26th, 2021 at 5:00 pm

Due to social distancing guidelines this meeting will be conducted via web conference at: meet.google.com/wje-xuct-mbr. The public may also use the teleconference option at +1 (315)-801-9407 then enter conference pin: 863 831 330#

AGENDA

1. Call meeting to order.
2. Roll call.
3. Civility Reminder.
4. Motion to approve the agenda as presented.
5. Motion to waive the reading and approve the minutes as printed from the December 29th, 2021 regular Municipal Services meeting.
6. Citizen Appearances other than agenda items.
 -
7. Quarterly review of sanitary sewer billing adjustments.
8. Director's Report
 - a. Parks and Recreation Report
 - b. Emergency Action Plan Addition - Load Shedding (Placeholder)
 - c. RP3 Submission
 - d. Downtown Flowers
 - e. AMI Project (Placeholder)
 - (1) Current AMI count remaining- Elec: **0** Water: 281
 - f. Lake Leota Dam Repair Update (Placeholder)
 - g. West Side Park Progress Update
 - h. Bridge Inspection (Placeholder)
 - i. Municipal Services building expansion progress report.
 - Sprinkler System vs Fire Wall
 - j. 5G Installation – Update
 - k. Motion to recommend to Common Council the replacement of Article IX of Article 106 with ordinance #2021-_____ regarding small cell wireless facilities in City Right-of-Way.
 - l. Four-Way stop request within connecting limits of USH 14 at Main & Water St.
 - m. Utility Bill Insert
 - n. Disconnection & DPA Plan - PSC submittal
9. City Engineer Report
 - a. Sub-division / Development Update
 - b. Inflow and Infiltration Study (Placeholder)

- c. Roadway construction & other project updates. (Placeholder)
 - First & Second St projects
 - 1. First St. reconstruction project expansion request (Liberty – Main St.)
 - 6th & Badger Roundabout
 - Sidewalks

10. Administrative Staff's Report

- a. Non-Collectable Utility Accounts Review (Placeholder)

11. WPPI

- a. Amy Wanek – ESR Report

12. Old Business

13. New Business

14. Upcoming Meeting Date, February 23rd, 2021 at 5:00 pm

15. Adjourn

James Brooks, Committee Chair

Please turn off all cell phones and electronic devices before meeting commences. If you have any special accessibility issues please contact Evansville City Hall at 608-882-2266 prior to the scheduled meeting. Thank you.

NOTICE

Municipal Services Committee
 Regular Meeting
 Tuesday, December 29th, 2020 at 5:00 pm

Due to social distancing guidelines this meeting will be conducted via web conference at: meet.google.com/azn-xmxx-fyf. The public may also use the teleconference option at +1 (650)-449-9224 then enter conference pin: 781 905 326#

MINUTES

1. **Call meeting to order.**

Brooks called the meeting to order at 5:02 pm

2. **Roll call.**

Jim Brooks, Ben Ladick and Gene Lewis were in attendance. Also present were: Mayor Bill Hurtley, Chad Renly, Brian Berquist, Kerry Lindroth, Dale Roberts & Amy Wanek as well as residents Justin & Sarah Spuhler

3. **Civility Reminder.**

4. **Motion to approve the agenda as presented.**

Ladick/Lewis 3-0 Motion Passed

5. **Motion to waive the reading and approve the minutes as printed from the November 24th, 2020 regular Municipal Services meeting.**

Ladick/Lewis 3-0 Motion Passed

6. **Citizen Appearances other than agenda items.**

a. **411 E. Main St. - Snow Removal**

Justin and Sarah Spuhler began by saying they were out of town when the snow came and understood why they received the fine. They requested a cancellation or partial reduction due to the fact that in the process of removing the snow from the sidewalk the City equipment also removed grass and dirt from either side of the sidewalk. Renly stated that due to the sidewalk being 4 feet wide instead of the now standard 5 foot the bucket of the ToolCAT did scrap dirt and grass from the terrace and lawn. He continued by saying that the City plans to come back in the Spring to smooth out the areas affected and plant new grass seed. Brooks stated that since the City will repair any damages done by its equipment the fine would remain as is.

7. **Director's Report**

a. **Parks and Recreation Report**

Renly stated that at the Park Board meeting they discussed the potential of a temporary ice skating rink at either the retention pond near Countryside Park or possibly West Side Park. Ray and Renly will look into the possibility and report back to the Park Board. Renly also said that there is a request to use Lake Leota for the Boy Scout ice fishing event. Renly also stated that the Lake Leota pier has been

removed for the season with a crane. This method of removal was much easier than doing it manually and will most likely continue to do so in the future.

b. Emergency Action Plan Section Addition - Load Shedding

Renly stated that he has received plans for Baker & Blue Scope but is still waiting for Larson Acres, Stoughton Trailers and the School District. Renly said that he will continue to work on it.

c. AMI Project (Placeholder)

(1) Current AMI Count Remaining- Elec: 0 Water: 281

There was nothing new to report on the AMI meter conversion

d. Lake Leota Dam Update (Placeholder)

Renly sent a letter to the DNR to request a variance from NR 335.08 (4) of the WIS ADMIN Code for the submission deadline to be extended to Jan 29th 2021 due to delays from the constraints of COVID. The DNR has granted the extension. Renly expects to see the plans and specifications the week of January 18th for review prior to final submission.

e. Bridge Inspection (Placeholder)

No change

f. 5G Installation – Update

Renly said that since the last meeting the MLA has been sent back to the attorney's office for further review to make sure that the MLA, Ordinance and State Statute do not contradict one another. Section Article IX of section 106 that is the current adopted ordinance was provided by MEUW prior to State Statute being completed. Once the State Statute came out, a second version of the Ordinance was created to match the Wisconsin State Statute. Renly stated that currently the plan is to replace the existing Ordinance with the second version that will comply with State Statute as well as the current version of the MLA.

g. Equipment Purchase Change

Renly mentioned that he would like approval to move forward with a change in budgetary plans. The current budget is set to purchase a new ToolCAT each year due to the fact that Bobcat has only had a one year warranty on that machine. Prior to this year Bobcat did not offer extended warranties to municipalities but became available for purchase. Renly proposed that the City purchase a 3 year extended full warranty. Renly showed a spread sheet that showed the cost over three years of switching to the extended warranty would save the City approximately \$5,150.00 every three years. The Committee approved the change in purchase due to the similar upfront costs and the long term savings.

h. Public Works Mutual Aid Agreement

Renly talked about his bi-monthly meetings with the City of Janesville, Beloit and Rock County. At the last meeting they had a discussion regarding COVID affecting plow truck drivers. As it stands the four entities have a verbal agreement to help each other out if needed during a snow emergency if any one entity is short drivers due to COVID. To make things more formal the City of Beloit brought up the idea of using the existing State Public Works Emergency Response Mutual Aid Agreement. Renly asked if the City had entered into this specific agreement in the past. No one in the Committee could remember ever seeing or signing such an agreement in the past. The Committee recommend that Renly adjust the agreement to be more specific regarding

event types and more detail as well as have the capability for all parties to sign a single document. Renly stated that he would work on it as time allows and will bring back to the Committee in the future.

i. Utility Processing Fees and Late Charges

Brooks started the discussion, stating that the moratorium has been extended several times and with it and late charges. The City had also decided to follow the PSC recommendation to waive utility payment processing fees as well. Brooks stated that he was unsure if the City had filed with the PSC for the temporary tariff change. The question was asked, how does that affect us now? Lewis and Ladick agreed that the City should continue to follow the moratorium guidelines and to continue the waiver of processing fees through April 15th of 2021. Based on the information provided Brooks stated that in 2019 there were \$28k in processing fees. Brooks also mentioned that we are looking at having a new contract with the payment processor that could save the City some money moving forward.

j. Municipal Service's Position Changes

Renly stated that there have been several changes in Municipal Services. Karl Rasmussen's retirement from the City is official on December 31st 2020. Paul Schmeling will be moving from the public works department to start as a first year electric lineman apprentice. Pat Hartin will be taking over as the Water Operator In Charge and Brad Way will also be moving over from the public Works Department to take the position of Water Operator. This will leave two open positions in the Public Works Department which will be advertised as soon as possible.

Mayor Hurlley stated he would like to see water main repairs be brought in-house. Renly agreed and stated that he has plans to do this but will take time due to lack of proper equipment and the need for additional training. Renly stated that the equipment required to do in house main repairs is already in the capitol improvement plan for 2026. Renly also said that per the discussion him and Mayor Hurlley had previously he was still working on getting the related costs associated with contracting out water main repairs.

k. Arbor Day Tree Program – Developers Use

Renly started by saying that this has been an ongoing problem with developers purchasing discounted trees from the Arbor Day Tree Program to obtain an Occupancy Permit for new developments areas. Renly said that he disagreed with their use of the program that was created to allow residents to purchase discounted trees for their terraces. Renly proposed that developers purchase their trees from local nurseries or other business that sell trees. Part of the reason developers began to use the program was that the program allows for the advanced purchase of trees in the Winter months which satisfied the occupancy requirement. Renly said that he had talked with Kendall from the locale tree nursery and asked if developers had the ability to purchase trees in advance and pick them up for planting when available in the Spring. Kendall said that they did have that ability. Ladick mentioned that he remembered having this discussion previously and that he agreed developers should seek other methods of purchase to obtain this part of their requirement to obtain an occupancy permit. The rest of the committee agreed that developers and contractors will not be allowed to purchase discounted trees from the program that is intended for residents.

8. City Engineer Report

a. Sub-division / Development Update

No Update

b. Inflow and Infiltration Study (Placeholder)

No Update

c. Roadway Construction & Other Project Updates (Placeholder)

i. First & Second St Projects

Berquist went over the plans of the projects and discussed the limits as it gets toward Old Hwy 92. Mayor Hurtleley stated that he had had discussions with the owner of the “old B&M building” located on the east side of the street near Old Hwy 92. He stated that the owner expressed interest in both water and sewer connections as well as annexation into the City. Berquist stated that utilities could certainly be run to the property and there had been previous discussion regarding having the utilities run to the south side of Old Hwy 92 at both First & Second St. Renly mentioned the curb lines and adding full radii at both intersections. Berquist, Renly & Sergeant will be meeting with the Township of Union to follow up with them in regards to costs and jurisdiction of these two intersections with Old Hwy 92. Berquist, Renly & Sergeant will also discuss further changes once they have had more time to review the plans.

ii. 6th & Badger Roundabout

The comment was made regarding the sidewalk located at the SE quadrant of the roundabout. The lot is currently empty and does not have side walk. The existing plan has sidewalk going along both the north and west side of the lot as part of the project. The question was asked if the sidewalk would be assessed and Berquist stated that the City would be able to do a differed assessment and would be applied once the lot was developed.

iii. Sidewalks

The 2021 Sidewalk projects will continue to be added as a separate but required bid item with the street reconstruction projects.

9. Administrative Staff's Report

a. Non-Collectable Utility Accounts Review (Placeholder)

The current report showed \$50k outstanding in the town of Union.

10. WPPI

a. Amy Wanek – ESR Report

Amy said that the Evansville HS was still working on the grant and that she was still helping the green team work on it.

Amy is still discussing the solar project at Stoughton Trailers but appears they may be backing away from the idea at the moment. Amy also stated that the Community funds have been spent Donna and her had confirmed all of the rebates and had received the invoice for lighting.

b. 2021 Action Plan

The 2021 Action plan has been finalized.

c. WPPI Board Report

Brooks reported that he attended the WPPI board meeting on December 17th. He said that WPPI discussed the load forecast being down, and that they did not expect any adjustments for COVID in 2021. WPPI is also looking at demand for 2021. Brooks

also reported that overall costs were down 2.1%. The APPA virtual Legislative Rally being held March 1st & 2nd has a deadline of January 8th for registration for anyone that would like to attend.

11. Old Business

None

12. New Business

Flower Baskets – Brooks stated that they have not had great luck in the past finding consistent help to water the flower baskets in the downtown areas. Renly suggested that Public Works could potentially have summer help water the plants every morning on the weekdays. Renly & Roberts will discuss and report back at the January meeting.

13. Upcoming Meeting Date, January 26th, 2021 at 5:00 pm

14. Adjourn

Ladick/Lewis 6:26pm

James Brooks, Committee Chair

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Sewer Credits for the Municipal Services Committee

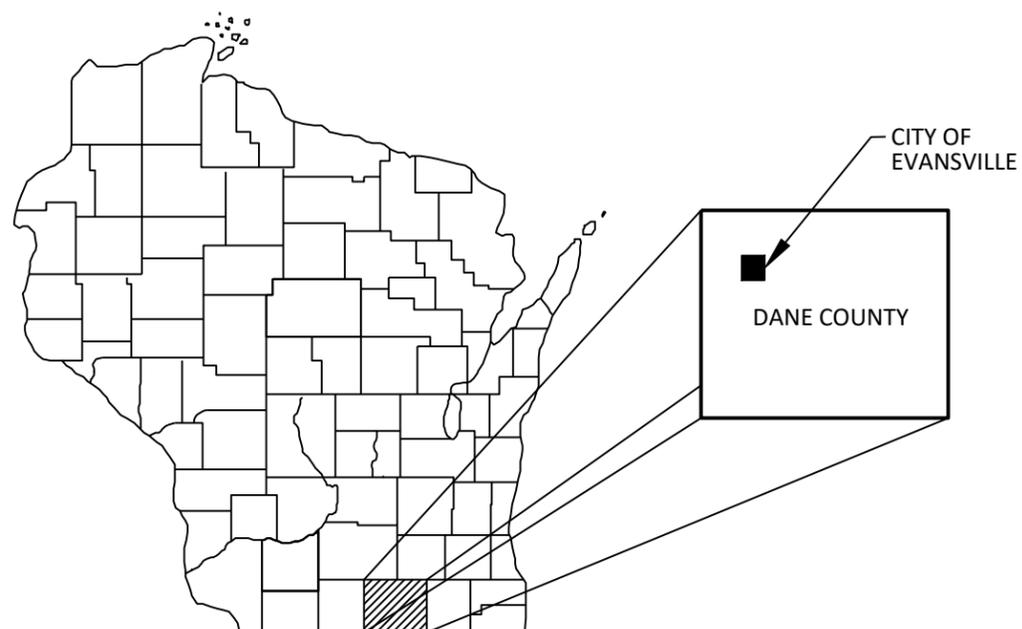
Sewer Credits for the Municipal Services Committee						Average usage
Date	Account Number	Total Overage Amount	Percentage Used	Credit Amount	Reason for Credit	
10/31/2020	15-2980-00	518	75%	\$ (26.03)	running toilet	194
10/31/2020	29-3420-02	302	75%	\$ (15.18)	brown water for extended period after flushing	559
10/31/2020	18-3270-02	577	75%	\$ (28.99)	running toilet	672
10/31/2020	11-1680-01	175	75%	\$ (8.79)	running toilet	364
10/31/2020	29-5240-04	637	100%	\$ (42.68)	sidewalk installed, reseeded by city, needed to water	284
10/31/2020	18-4075-04	172	100%	\$ (11.52)	outside spigot leaking	884
10/31/2020	29-5290-01	667	100%	\$ (44.69)	outside spigot leaking	798
10/31/2020	10-2115-10	3585	75%	\$ (180.15)	defective valve was replaced twice (3 months)	682
10/31/2020	20-2080-00	224	100%	\$ (15.01)	outside spigot leaking	10
11/30/2020	19-2680-00	972	75%	\$ (48.84)	water softener issue	590
				\$ -		2046

PLAN OF PROPOSED IMPROVEMENTS
LAKE LEOTA DAM

ROCK COUNTY, WISCONSIN

DRAWING INDEX

- C1.0 TITLE SHEET
- C2.0 SITE OVERVIEW
- C2.1 PROPOSED REPAIR LOCATIONS
- C3.0 CONCRETE DETAILS
- C3.1 CONCRETE RESURFACING AREAS



OWNER:
 CITY OF EVANSVILLE
 535 S. MADISON STREET
 EVANSVILLE, WI 53536
 ATTN: CHAD RENLY, MUNICIPAL SERVICES DIRECTOR
 PHONE: 608-490-1313
 EMAIL: Chad.renly@ci.evansville.wi.gov

ENGINEER:
 JEWELL ASSOCIATES ENGINEERS INC.
 560 SUNRISE DRIVE
 SPRING GREEN, WI 53588
 PHONE: 608-588-7484
 FAX: 608-588-9322
 ATTN: TODD DEIBERT
 EMAIL: todd.deibert@jewellassoc.com

Lake Leota Dam Repairs
 Evansville, Wisconsin

Date	Revision
1-21-21	

Drawing Name
Title Sheet

Sheet No.
C1.0
 Project Number
E29110



LAKE LEOTA

SPILLWAY 2

SPILLWAY 1

BURR W JONES CIR

ANTES DR

JEWELL
 associates engineers, inc.
 Engineers - Architects - Surveyors

560 Sunrise Drive
 Spring Green, WI 53588
 phone: 608-588-7484

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**Lake Leota Dam Repairs
 Evansville, Wisconsin**

Date	Revision
1-21-21	

Drawing Name
SITE OVERVIEW

Sheet No.
C2.0

Project Number
E29110

**Lake Leota Dam Repairs
Evansville, Wisconsin**

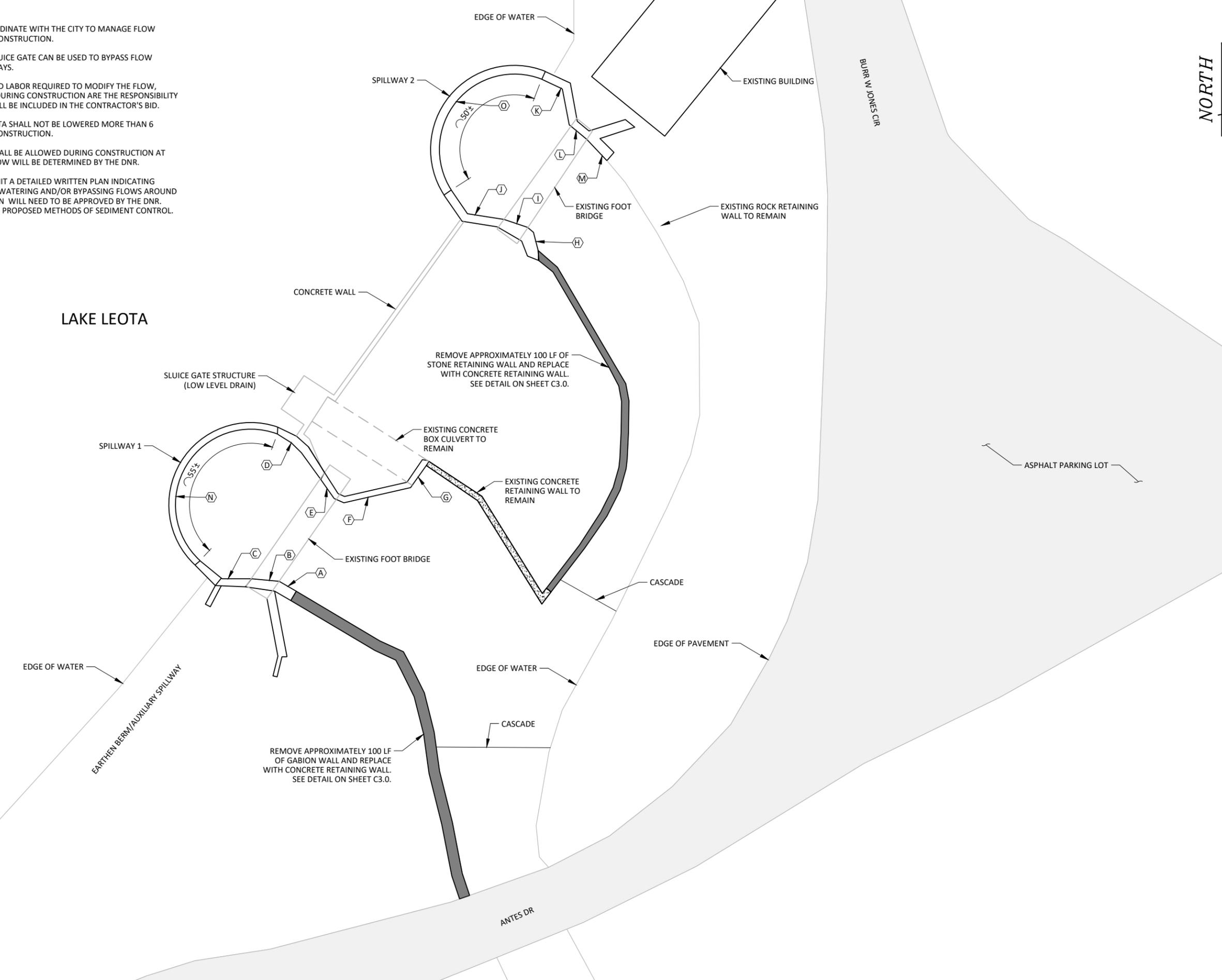
Date	1-21-21
Date	Revision

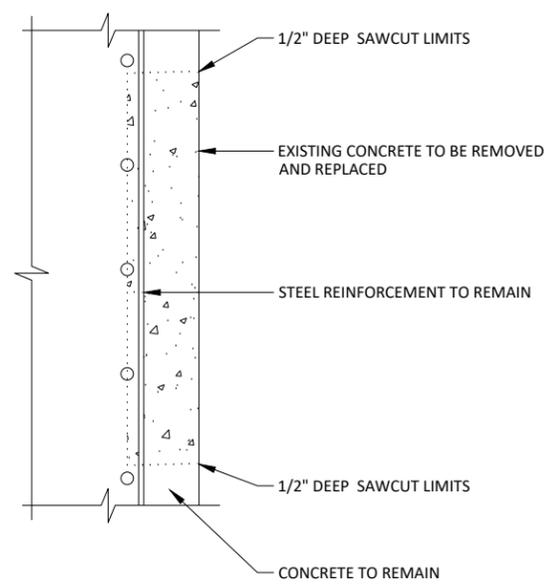
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**PROPOSED
REPAIR
LOCATIONS**

Sheet No.
C2.1
Project Number
E29110

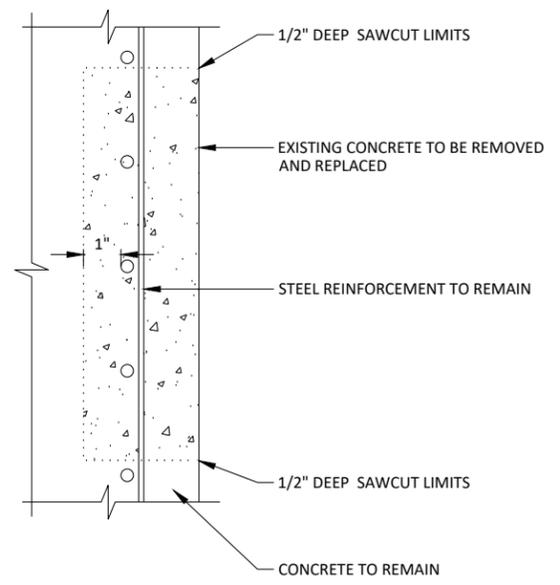
- NOTES:**
1. THE CONTRACTOR SHALL COORDINATE WITH THE CITY TO MANAGE FLOW THROUGH THE DAM DURING CONSTRUCTION.
 2. IT IS ANTICIPATED THAT THE SLUICE GATE CAN BE USED TO BYPASS FLOW DURING WORK ON THE SPILLWAYS.
 3. ALL NECESSARY MATERIALS AND LABOR REQUIRED TO MODIFY THE FLOW, DEWATER, OR DIVERT WATER DURING CONSTRUCTION ARE THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE INCLUDED IN THE CONTRACTOR'S BID.
 4. THE WATER LEVEL IN LAKE LEOTA SHALL NOT BE LOWERED MORE THAN 6 INCHES AT ANYTIME DURING CONSTRUCTION.
 5. A MINIMUM STREAM FLOW SHALL BE ALLOWED DURING CONSTRUCTION AT ALL TIMES. THIS MINIMUM FLOW WILL BE DETERMINED BY THE DNR.
 6. THE CONTRACTOR SHALL SUBMIT A DETAILED WRITTEN PLAN INDICATING MEANS AND METHODS FOR DEWATERING AND/OR BYPASSING FLOWS AROUND AREAS OF THE WORK. THIS PLAN WILL NEED TO BE APPROVED BY THE DNR. THE PLAN SHALL ALSO INCLUDE PROPOSED METHODS OF SEDIMENT CONTROL.

LAKE LEOTA

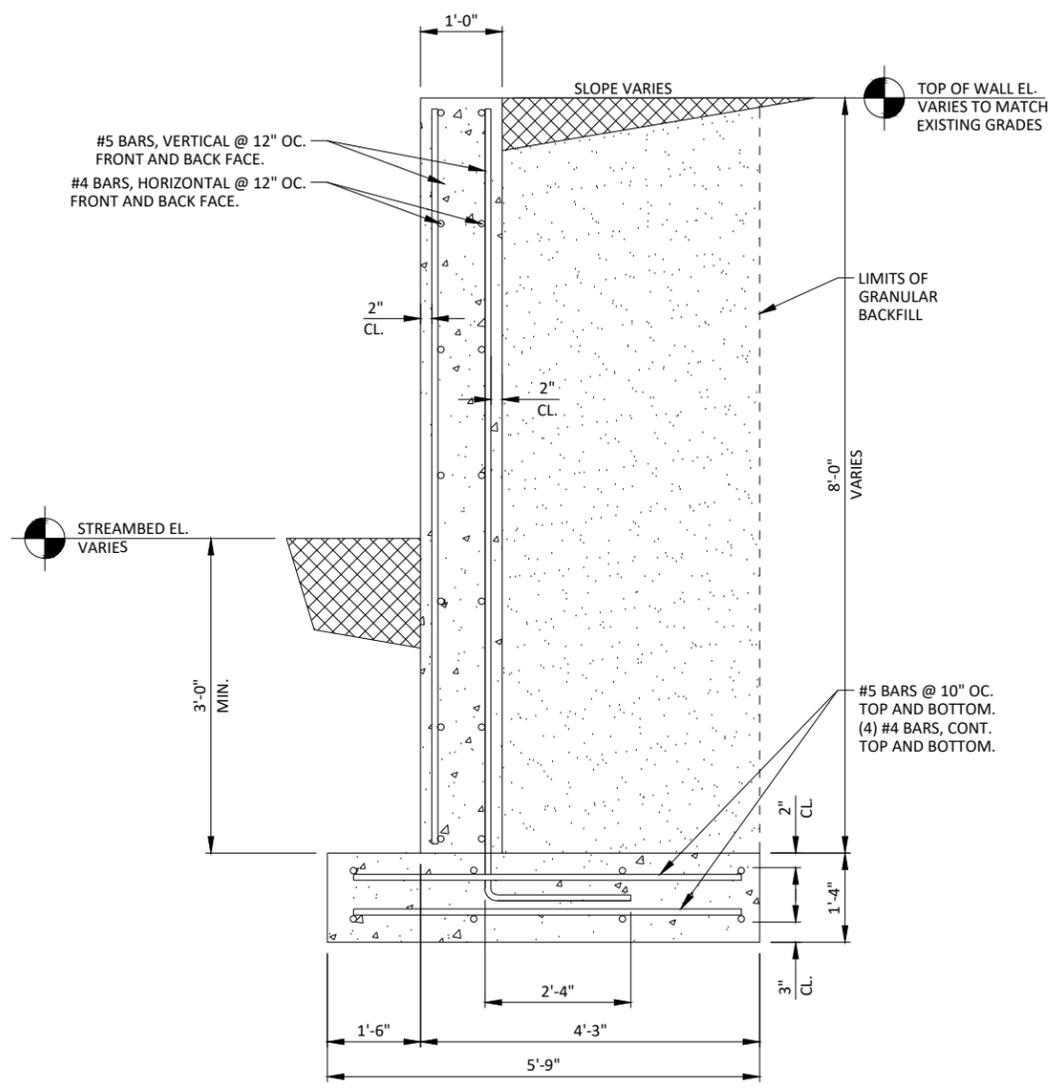




CONCRETE SURFACE PREPARATION TYPE 1



CONCRETE SURFACE PREPARATION TYPE 2



RETAINING WALL

Lake Leota Dam Repairs
 Evansville, Wisconsin

Date	Revision
1-21-21	

Drawing Name

CONCRETE DETAILS

Sheet No.
C3.0

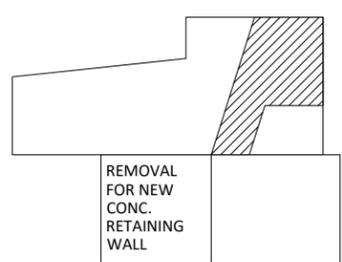
Project Number
 E29110

LEGEND

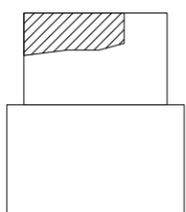
□ TYPE 1 REPAIR

▨ TYPE 2 REPAIR

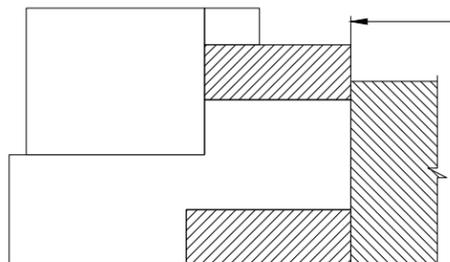
NOTE
 ALL AREAS LISTED ARE ESTIMATED, NOT MEASURED FROM SURVEY
 ALL VERTICAL SURFACES SHALL RECEIVE CONCRETE SURFACE PREPARATION, TYPE 1. AREAS ESTIMATED TO RECEIVE CONCRETE SURFACE PREPARATION TYPE 2 ARE SHOWN BELOW. THE ENGINEER IN THE FIELD SHALL DETERMINE TYPE 2 LIMITS.



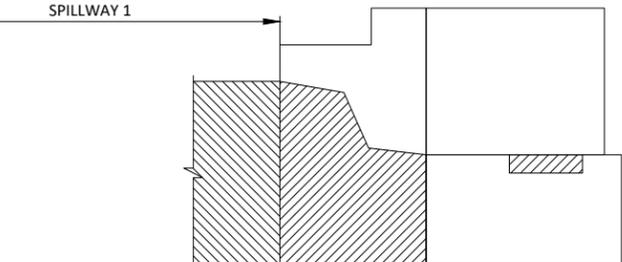
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 CONCRETE SURFACE PREPARATION
 TYPE 2: 27 SF



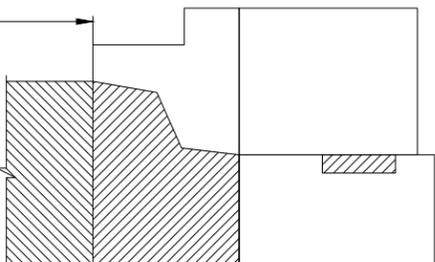
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 CONCRETE SURFACE PREPARATION
 TYPE 2: 11 SF



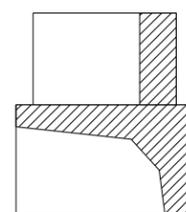
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 TYPE 2: 51 SF



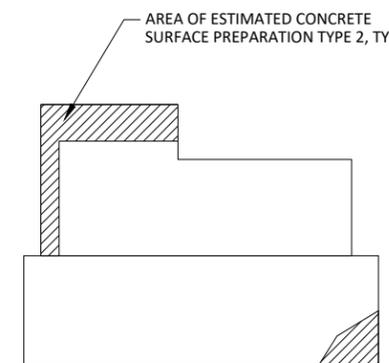
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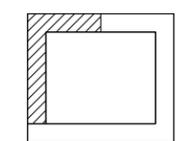
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E
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 TYPE 2: 35 SF

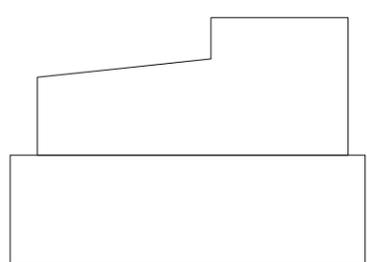


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 TYPE 2: 27 SF

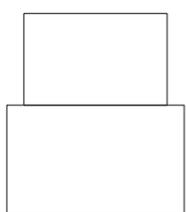


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 TYPE 2: 9 SF

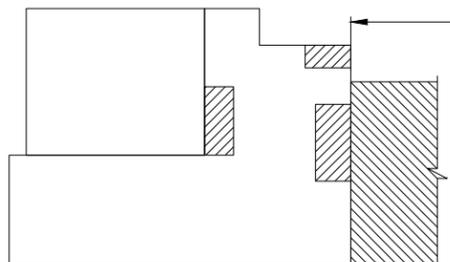
SOUTH DAM ELEVATIONS



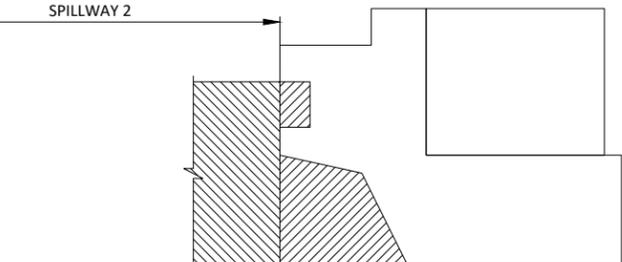
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 CONCRETE SURFACE PREPARATION
 TYPE 2: 0 SF



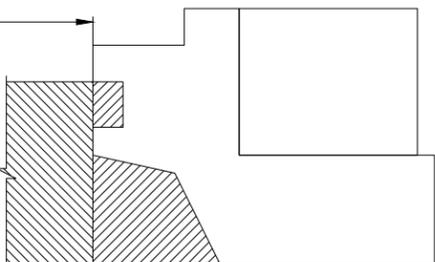
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 CONCRETE SURFACE PREPARATION
 TYPE 2: 0 SF



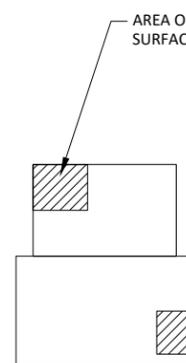
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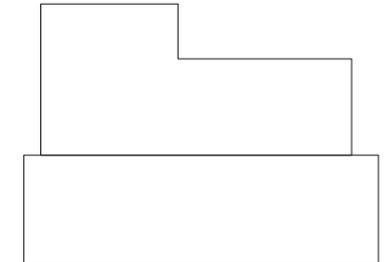
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 CONCRETE SURFACE PREPARATION
 TYPE 2: 500 SF



K
 CONCRETE SURFACE PREPARATION
 TYPE 1: 244 SF
 CONCRETE SURFACE PREPARATION
 TYPE 2: 35 SF



L
 CONCRETE SURFACE PREPARATION
 TYPE 1: 97 SF
 CONCRETE SURFACE PREPARATION
 TYPE 2: 13 SF



M
 CONCRETE SURFACE PREPARATION
 TYPE 1: 228 SF
 CONCRETE SURFACE PREPARATION
 TYPE 2: 0 SF

NORTH DAM ELEVATIONS

ESTIMATED TOTAL
 CONCRETE SURFACE PREPARATION TYPE 1: 3,271 SF
 CONCRETE SURFACE PREPARATION TYPE 2: 1,293 SF

Lake Leota Dam Repairs
 Evansville, Wisconsin

Date	1-21-21
Date	Revision

Drawing Name
CONCRETE RESURFACING AREAS

Sheet No.
C3.1
 Project Number
 E29110

**Request for Quotes for the City of Evansville, WI
DESIGN AND CONSTRUCTION OF A NEW 24 ACRE PARK WITH ATHLETIC FIELDS,
SPLASH PAD, SWIMMING POOL, AND DEMOLITION AND REMOVAL OF AN EXISTING
SWIMMING POOL**

Issued: February __, 2021

Submission Deadline: 4:00 pm on March ____, 2021

Contact Information:

Jason Sergeant, Community Development Director

City of Evansville

31 S Madison Street

PO Box 529

Evansville, WI 53536

jason.sergeant@ci.evansville.wi.gov

A. Project

Description and History: The City of Evansville, WI is seeking to replace its existing swimming pool with a splash pad, and subsequently demolish the existing facility. Additionally, the project will include the development of 24 acre West Side Park to include a new swimming pool, athletic fields and other park amenities. Funding will be a combination of taxpayer funds and private donations. The Project will consist of construction of a new aquatic center, trails, central pedestrian way, athletic fields, parking, and concessions/washrooms at West Side Park.

Demolition of the existing aquatic center at Leonard-Leota Park and reconstruction a splash pad with refurbished parking and grounds. The project will be designed and constructed within a 24-month period. All changes will be made within the bounds of West Side and Leonard-Leota Park.

The City had completed a concept study with designs for West Side Park as well as Concept studies for pools and Leonard-Leota Park. The Background work done for a 2020 Park and Outdoor Recreation Plan, Concept Design Work for Westside Park, and Concept design work for the Aquatic Center can be found here:

http://www.ci.evansville.wi.gov/life_in_evansville/recreation/

B. Requested Services

The City is soliciting qualification statements for engineering services to assist the City the design, public outreach, bid management and procurement, construction administration and inspections related to the creation of a new aquatic center, park, and splashpad.

C. Project Budget

The firm selected by the City for this project will assist in developing a project to fit within the projected project budget.

D. Proposed Scope of Work

The selected firm will be responsible for providing the following services in conformance with applicable local, state, and federal:

- Design of desired infrastructure improvements required to service the new pool;
- Project drawings and specifications;
- Preparation of bid packets;
- Consultations;
- Supervision;
- Travel;
- Requests for Information on plans and specifications;
- Construction staking;
- Review and approve submittals;
- Contractor pay application verifications and forwarding to City with appropriate recommendations for payments;
- Ensuring demolition of all components of the existing pool meet all applicable environmental regulations;
- Construction close out (as-builts, punch lists, final inspections, receipt and forwarding to the City of final lien waivers);
- Inspection and review of warranty work one year after close-out;
- Construction inspection for the entire project and sufficient site visits to ensure the work is proceeding in accordance with the construction contract;
- Providing reproducible “As Built” plan drawings to the City upon project completion;
- Maintenance for all required records for at least three years after the City makes the final payment and all pending matters are closed;
- The City may request assistance from the selected engineer in developing a fundraising plan and/or other grant applications for funding to support construction.

E. Project Schedule

The selected consultant is expected to begin work immediately upon award of the contract and will be asked to assist with the development of a project schedule for their work and project build out. The schedule should reflect appropriate time to perform public outreach for project feedback of project amenities.

F. Required Qualifications and Selection Process

Engineering Consultants will be evaluated on the basis of the following criteria:

- The person/firm must have adequate experience and qualified staff to perform the work required, including familiarity with all aspects of pool construction;
- The person/firm must have the ability to meet the time schedule established for the work;
- Level of knowledge around the variety of options for swimming pool configurations and amenities for communities of similar size and composition as the City of Evansville;
- The person/firm must keep current all required insurance coverage sufficient to cover the projected liability of the assigned project. As part of the contract, the person/firm will be required to provide evidence of coverage of professional liability insurance and evidence that it will indemnify and hold harmless the City from any and all claims and/or liability which may arise as a result of the person/firm’s negligence, errors and/or omissions.
- Demonstrated experience and success with park planning and building design in historic or traditional park settings.

-

G. Proposal Requirements

The following information should be included in the Respondent's submittal:

- Name of Respondent
- Respondent address
- Respondent telephone number
- Respondent federal tax identification number
- Name, title address, telephone number, fax number, and email address of contact person authorized to contractually obligate the Respondent on behalf of the Respondent.
- Summary of qualifications, including:
 - Describe Respondent's firm by providing its full legal name, date of establishment, type of entity and business expertise, short history, current ownership structure and any recent or materially significant proposed change in ownership.
 - Describe and provide examples of prior work with pool design, historic park design. Preference is for the types of projects similar in nature to the scope of work provided in this Request for Qualifications.
 - Respondent should list references from previous clients that may be contacted to verify quality of work and ability to meet timeline requirements of the project.
 - Identify staff members who would be assigned to act for Respondent's firm in key management and field positions providing the services described in the Scope of Services, and the functions to be performed by each.
 - Identify the hourly billed rates for each employ working for the engineering firm.
 - Background and Experience of Staff that will be assigned to this Project
 - Provide information about the Respondent's insurance coverage.
 - Qualified Signature - By signing the response, the Respondent certifies that the signatory is authorized to bind the Respondent.
- Responses should address the RFQ Scope of Work to include:
 - A brief statement of the Respondent's understanding of the scope of the work to be performed;
 - A confirmation that the Respondent meets the appropriate state licensing requirements to practice in the State of Wisconsin;
 - A confirmation that the Respondent has not had a record of substandard work within the last five years;
 - A confirmation that the Respondent has not engaged in any unethical practices within the last five years;
 - A confirmation that, if awarded the contract, the Respondent acknowledges its complete responsibility for the entire contract, including approval of all payments resulting from work completed under the Project contract;
 - Any other information that the Respondent feels appropriate.

Respondents are directed to submit their qualifications without reference to price. The respondent deemed most qualified will then be interviewed. After a firm is selected, the City will request that a price proposal be submitted.

H. Submission of Proposals

Interested firms shall submit qualifications by 4:00 pm on March ____, 2021. Responses may be hand delivered, mailed, delivered via courier service to the following address:

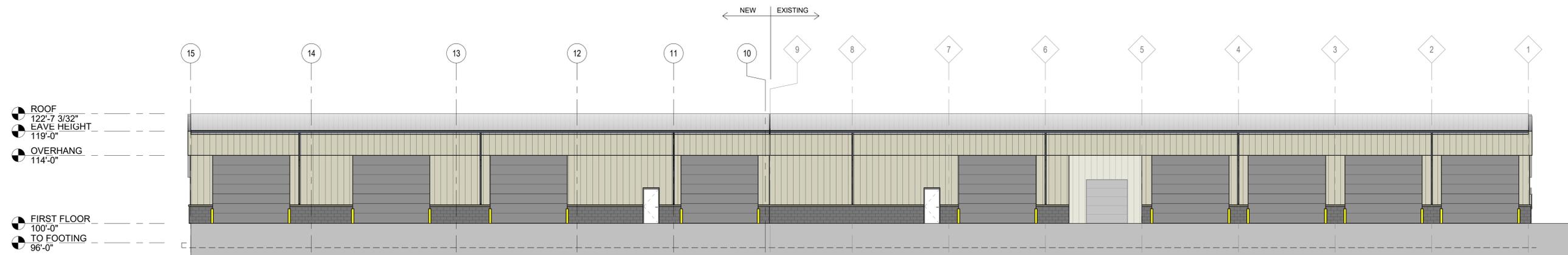
Jason Sergeant, Community Development Director
City of Evansville
31 S Madison Street
PO Box 529
Evansville, WI 53536

Proposals may also be submitted by email to jason.sergeant@ci.evansville.wi.gov

Proposals received after this deadline will not be considered. Any questions regarding this request should be directed to Jason Sergeant at 608-882-2266 or via e-mail at jason.sergeant@ci.evansville.wi.gov. The selected firm will be notified by telephone. Notification will not be sent to firms not selected. The selected firm will be notified by the City and will be expected to enter into an agreement with the City as soon as possible after such notification.

The City of Evansville accepts no responsibility for any expense related to preparation or delivery of proposals. **The City reserves the right to reject any and all proposals, select the firm most qualified for the referenced work, waive technical errors and informalities, negotiate terms of the final contract, and to accept the proposal, which, in its sole judgment, best serves the public interest.** The City of Evansville encourages small, female, minority and local firms or individuals to submit proposals on this project. The City of Evansville is an Equal Opportunity Employer and abides by all non-discrimination regulations.

D



C

C1 OVERALL EAST ELEVATION
3/32" = 1'-0"

B



B1 OVERALL WEST ELEVATION
3/32" = 1'-0"

A

BUILDING ADDITION
CITY OF EVANSVILLE
535 S MADISON ST
EVANSVILLE, WI

Project Status
2020.12.23 CONCEPT

PROJ. #: 20001-01

© SKETCHWORKS
ARCHITECTURE 2020

**OVERALL
EXTERIOR
ELEVATIONS**

A201

PRELIMINARY

LICENSE AGREEMENT
FOR WIRELESS ATTACHMENTS TO POLES
BETWEEN CITY OF EVANSVILLE
AND
UNITED STATES CELLULAR OPERATING COMPANY, LLC

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**LICENSE AGREEMENT
FOR WIRELESS ATTACHMENTS TO POLES
BETWEEN CITY OF EVANSVILLE
AND
UNITED STATES CELLULAR OPERATING COMPANY, LLC**

This LICENSE AGREEMENT (“**Agreement**”), effective as of the date of the last signature below (“**Effective Date**”), is made by and between the City of Evansville (“**City**”), a municipal corporation acting in its capacity as a Wisconsin public utility (“**Utility**”), and United States Cellular Operating Company, LLC (“**Licensee**”), with its principal offices located at 8410 W. Bryn Mawr Avenue, Chicago, IL 60631.

RECITALS

- A. Licensee desires to install, own, and/or operate Wireless Facilities on or supported by Utility’s Poles to be used to provide Wireless Service.
- B. Utility is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee’s Wireless Attachments on Poles, provided that Utility may refuse, on a non-discriminatory basis, to issue a Permit where there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering purposes, and/or any other Engineering Standards, in accordance with the terms and conditions in this Agreement.

AGREEMENT

UTILITY AND LICENSEE AGREE as follows:

ARTICLE 1: DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

- 1.1 **Affiliate**, when used in relation to Licensee, means another entity that owns or controls, is owned or controlled by, or is under common ownership control with Licensee.
- 1.2 **Antenna** means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of Wireless Services.
- 1.3 **Antenna Area** means the area on a Pole where the Antenna is installed, which is a component of a Wireless Facility. For a Wireless Facility that utilizes the top of a Pole, the Antenna Area shall be the Pole Top Space.
- 1.4 **Communications Space**, consistent with 47 C.F.R. § 1.1402(r), means the lower usable space on a Utility Pole, which typically is reserved for low-voltage communications equipment and which may be accessed by a Qualified Communications Worker.
- 1.5 **Communication Worker Safety Zone** means that space on a Utility Pole measured from the location of the neutral or lowest supply conductor to a location 40 inches below, as described in the National Electrical Safety Code (“**NESC**”).

- 1.6 **Decorative Streetlight Pole** means a pole structure of a decorative nature owned by Utility that is not part of the electric distribution system, the primary function of which is to support equipment used to provide overnight streetlight service, overhead streetlight service, or all-night security light service. The term “Decorative Streetlight Pole” also includes pole structures of a non-decorative nature that support streetlights and are not embedded in the ground or have break-away bases.
- 1.7 **Emergency** means a condition that poses a clear and immediate danger to life or health or of a significant loss of property or that requires immediate repair or replacement in order to restore electric service to a customer.
- 1.8 **Engineering Standards** means all applicable engineering and safety standards governing the installation, maintenance, and operation of utility facilities and the performance of all work in or around electric utility facilities, including all Utility’s standards as reflected in this Agreement) or otherwise adopted by Utility and the most current versions of the Wisconsin State Electrical Code (Wis. Admin. Code Ch. PSC 114) (“**WSEC**”), the National Electrical Code (“**NEC**”), the NESC, the regulations of the Occupational Safety and Health Administration (including the rules regarding safety equipment), and the safety and engineering requirements of any state or federal agency with jurisdiction over utility facilities, each of which is incorporated by reference into this Agreement.
- 1.9 **Good Utility Practice** means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any practices, methods, and acts which, in the exercise of good judgment in light of the facts known at the time the decision was made, could have expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, and expedition.
- 1.10 **Laws** mean any federal, state, or local laws, rules, or regulations applicable to the activities contemplated under this Agreement.
- 1.11 **License Fee** means the annual per-Pole fee specified in Appendix A, which Licensee is required to pay to Utility for the right to attach its Wireless Facilities to a Pole.
- 1.12 **Make-Ready Survey or Survey** means the field work and analysis necessary to determine whether Licensee’s proposed use of a Utility Pole or Streetlight Pole is feasible based on capacity, safety, reliability, generally applicable engineering purposes, Good Utility Practice, and the Engineering Standards and to confirm or determine the nature of modifications, capacity expansion (i.e., taller or stronger Pole), and Make-Ready Work, if any, necessary to accommodate Licensee’s proposed use of the Pole.
- 1.13 **Make-Ready Work** means all work, as reasonably determined by Utility, required to accommodate Licensee's Wireless Facilities on a Utility Pole or Streetlight Pole and/or to comply with all Engineering Standards and Good Utility Practice. Such work may include, but is not limited to, rearrangement and/or transfer of Utility’s facilities or existing attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole strengthening, and related construction (such as pole replacement).

- 1.14 **Micro Wireless Facility** means a Wireless Facility that does not exceed 24 inches in length, 15 inches in width, and 12 inches in height and that has no exterior Antenna longer than 11 inches and that is strung on cables between existing Utility Poles.
- 1.15 **Normal Business Hours** means Monday through Friday from [7:00 a.m. to 5:00 p.m.] CST (Central Standard Time).
- 1.16 **Pad-Mounted Equipment Cabinet** means a stand-alone, weatherproof, metal, or composite enclosure consisting of a utility metering section and a Wireless Equipment section, which must be purchased, installed, and owned by Licensee and approved by Utility. Licensee must submit to Utility for its review and approval the manufacturing specifications and information for the equipment cabinet.
- 1.17 **Permit** means written or electronic authorization issued by Utility for Licensee to install, modify, or remove a Wireless Attachment (other than a Micro Wireless Facility) in a particular location pursuant to the requirements of this Agreement.
- 1.18 **Permit Application** means a complete application for a Permit in the form provided by the City and submitted with all applicable documents by Licensee to Utility for the purpose of requesting a Permit to install, modify, or remove a Wireless Attachment (other than a Micro Wireless Facility).
- 1.19 **Pole** means a Utility Pole, Streetlight Pole, or Decorative Streetlight Pole. The term “Pole” does not include transmission poles or towers.
- 1.20 **Pole Top Space** means the top portion of a Pole that is designated for the installation of one or more (as determined by Utility) enclosed Antennas. The Pole Top Space shall begin 68 inches above the highest electrical supply conductor or device on the Pole and continue upwards to the top of the Pole. For Wireless Attachments that use the top of a Pole, the Pole Top Space shall be considered the Antenna Area. The Pole Top Space is located entirely within the Supply Space.
- 1.21 **Post-Construction Inspection** means the inspection by Utility or Licensee or some combination of both to verify that the Wireless Attachments have been made in accordance with Engineering Standards and the Permit.
- 1.22 **Qualified Communications Worker** means a worker meeting all current training and experience requirements of all applicable federal, state, and local work rules, including OSHA Standard 1910.268 (29 C.F.R. § 1910.268).
- 1.23 **Qualified Electrical Worker** means a worker meeting all training and experience requirements of all applicable federal, state, and local work rules, including OSHA Standard 1910.269 (29 C.F.R. § 1910.269).
- 1.24 **Reserved Capacity** means structural capacity or space on a Pole that Utility has identified and reserved for its own core electric utility service and lighting requirements, including space for any and all associated internal communications functions that are essential to the proper operations of such core electric utility service, pursuant to reasonable projected need.

- 1.25 **Streetlight Pole** means a pole structure of a non-decorative nature owned by Utility that is not part of the electric distribution system, the primary function of which is to support equipment used to provide overnight streetlight service, overhead streetlight service, or all-night security light service. The term “Streetlight Pole” only includes pole structures embedded in the ground and excludes pole structures with break-away bases.
- 1.26 **Supply Space** means that space on a Utility Pole where Utility has installed or may install energized electric conductors and related electric supply equipment and also includes attachments that extend above the Pole Top Space. All work performed within the Supply Space shall be performed by Qualified Electrical Workers.
- 1.27 **Unauthorized Wireless Attachment** means any Wireless Facility or Wireless Equipment installed by Licensee on a Pole or on a span of wire or cable between two Poles without a Permit to do so, if a Permit is required under this Agreement.
- 1.28 **Utility Pole** means a pole structure owned by Utility and used for the distribution of electricity that is capable of supporting Wireless Attachments, whether or not a streetlight arm is attached to the pole structure. The term “Utility Pole” does not include Streetlight Poles or Decorative Streetlight Poles.
- 1.29 **Wireless Attachment** means a Wireless Facility mounted onto or supported by a Pole, in whole or in part, or attached to a span of wire or cable running between two Poles.
- 1.30 **Wireless Equipment** means any FCC-authorized radio equipment components owned by Licensee and used for a Wireless Facility, including Antennas, remote radio heads, transmitters, transceivers, cables, wires, and related components of a Wireless Facility.
- 1.31 **Wireless Equipment Cabinet** means a weather-tight enclosure that houses Wireless Equipment and associated electronics.
- 1.32 **Wireless Facility** means one or more Antennas and associated Wireless Equipment installed at the same fixed location that enables Wireless Service between user equipment and a communications network, and includes all of the following: (a) pole-mounted and ground-mounted equipment associated with Wireless Service; (b) radio transceivers, Antennas, or coaxial, metallic, or fiber-optic cable located on, in, under, or otherwise adjacent to a Pole; (c) regular and backup power supplies; (e) Wireless Equipment housed within an associated pole-mounted equipment cabinet or Pad-Mounted Equipment Cabinet. “Wireless Facility” shall include a Micro Wireless Facility but shall not include any microwave dishes, wireline back haul facilities, or other wires or cables used to connect to other wireless or wired communications facilities or equipment not at the same fixed location.
- 1.33 **Wireless Service** means the provision of authorized voice, video, or data services over a Wireless Facility.

ARTICLE 2: SCOPE OF AGREEMENT

- 2.1 Grant of License. Subject to the provisions of this Agreement and to Licensee’s application for and receipt of a Permit, Utility hereby grants Licensee a revocable, nonexclusive license

authorizing Licensee to install and maintain Wireless Attachments to Utility's Poles. This grant of authority applies solely to facilities and equipment that Licensee owns.

- 2.2 Parties Bound by Agreement. Licensee and Utility agree to be bound by all provisions of this Agreement and of the Permits issued pursuant to this Agreement.
- 2.3 Permit Issuance Conditions. Utility will issue a Permit to Licensee only when Utility determines, in its sole judgment, reasonably exercised, that (i) it has sufficient capacity to accommodate the requested Wireless Attachments, (ii) Licensee meets all requirements set forth in this Agreement, and (iii) the affected Poles can safely accommodate the proposed Wireless Attachments consistent with all applicable Engineering Standards and Good Utility Practice.
- 2.4 Reservation of Rights. Utility reserves the right to terminate any Permit it issues as necessary to ensure the safe and reliable operation and maintenance of Utility's electric system. In the event that Utility, in its reasonable discretion, believes that it must terminate any Permit in order to ensure safe and reliable operation and maintenance of Utility's electrical system, the termination provisions of Article 16 shall apply.
- 2.5 Licensee's Right to Attach.
- 2.5.1 Nothing in this Agreement, other than the issuance of a Permit, shall be construed as granting Licensee any right to attach its Wireless Equipment to any specific Pole or to compel Utility to grant Licensee the right to attach to any specific Pole.
- 2.5.2 Nothing in this Agreement shall be construed to grant any Affiliate of Licensee the right to attach to any Poles without entering into a license agreement with Utility and receiving a Permit pursuant to such agreement.
- 2.5.3 No use by Licensee of Utility's Poles shall create or vest in Licensee any ownership or property rights in those Poles. Notwithstanding anything in this Agreement to the contrary, Licensee is and shall remain a mere licensee.
- 2.6 Necessity of Authorizations. Licensee shall secure all necessary certifications, permits (including for right-of-way use), and franchises from federal, state, and local authorities prior to placing any Wireless Attachments on a Pole.
- 2.7 Necessity of Easements on Private Property. Licensee shall secure all necessary easements or other permissions from the property owner prior to placing any Wireless Attachments on a Pole located on private property.
- 2.8 Reserved Capacity. Access to space on Poles will be made available to Licensee with the understanding that such access is to Utility's Reserved Capacity. On giving Licensee at least 60 days' prior notice ("**Reclamation Notice**"), Utility may reclaim such Reserved Capacity any time within the five-year period following the installation of Licensee's Wireless Facility. In the Reclamation Notice, Utility shall give Licensee the option to remove its Wireless Facility from the affected Pole or to pay for the cost of any Make-Ready Work for which Utility would otherwise be responsible in order to expand the capacity of the affected Pole so that Licensee can maintain its Wireless Attachment on the affected Pole.

- 2.9 Expansion of Capacity. Utility will expand pole capacity for Utility Poles, at Licensee's expense, when necessary to accommodate Licensee's Wireless Attachment approved pursuant to the issuance of a Permit, and when consistent with local governmental land use requirements of general applicability and all applicable Laws and Engineering Standards. Notwithstanding the foregoing sentence, Utility is under no obligation to install, retain, extend, or maintain any Pole for the benefit of Licensee when such Pole or system of Poles is not needed for Utility's core electric or customer service requirements.
- 2.10 Permitted Uses. The license granted to Licensee is limited to the uses specifically stated in this Agreement, and no other use by Licensee shall be allowed without Utility's express written consent to such use. Nothing in this Agreement shall be construed to require Utility to allow Licensee to use any Poles after the termination of this Agreement.
- 2.11 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to a Permit within three months of the issuance of the Permit or completion of the Make-Ready Work, if any (or such longer time period as agreed between the parties), the Permit shall be null and void and Utility may use the space scheduled for Licensee's Wireless Attachment. Utility shall grant an extension where Licensee demonstrates that events beyond its control prevented Licensee from exercising any such access right. In such instances, Utility shall endeavor to make other space available to Licensee, upon written request, as soon as reasonably possible.
- 2.12 Agreements with Third Parties. Nothing contained in this Agreement shall be construed as affecting any rights or privileges conferred by Utility, by contract or otherwise, to others not a party to this Agreement to use any facilities or Poles covered by this Agreement. Utility shall have the right to continue to extend such rights and privileges. The privileges granted to Licensee shall at all times be subject to any such contracts and arrangements, including extensions thereof.

ARTICLE 3: FEES

- 3.1 Permit Application Fee. Licensee shall pay to Utility the applicable Permit Application Fee specified in **Appendix A** at the time a Permit Application is submitted. The Permit Application Fee shall increase by 2% over the then-existing amount on each anniversary of the Effective Date.
- 3.2 License Fee. Licensee shall pay to Utility the applicable License Fee specified in **Appendix A** on the schedule set out in Section 3.4. The License Fee shall increase by 2% over the then-existing amount on each anniversary of the Effective Date.
- 3.3 Other Fees. The Unauthorized Wireless Attachment Fee and the Failure to Transfer Fee are set out in **Appendix A** and shall be charged in accordance with Articles 22 and 18, respectively.
- 3.4 Billing Cycle. The total annual License Fee shall be determined based upon the number of Poles for which Permits have been issued under this Agreement, the License Fee and which is effective on the date the permit is approved and payable within 90 days. The annual License Fee shall be due and payable, in advance, on or before the anniversary of the permit approval date.

- 3.5 Physical Inventory to Verify Pole Count for Billing Purposes. Utility shall have the right to conduct a physical inventory of Licensee's Wireless Attachments on Utility's Poles upon 90 days' advance written notice. In such event, Utility employees or contractors selected by Utility shall conduct such physical inventory. Licensee shall notify Utility if Licensee chooses to have a representative present during the inventory process. A physical inventory shall be taken no more frequently than once every year; provided, however, that Utility may request and require a physical inventory to be taken more frequently in the event of a default by Licensee in the performance of its obligations hereunder. The cost of such physical inventory shall be shared equally among all users of the Poles, unless such inventory discloses Unauthorized Wireless Attachments, in which case Licensee shall pay the entire cost of the inventory for any Pole(s) determined to have Unauthorized Wireless Attachments.
- 3.6 Payment of Electric Service. Electric service for each Wireless Facility will be billed in accordance with the applicable Utility rate for electric service.

ARTICLE 4: PAYMENT OF COSTS

- 4.1 Work Performed by Utility. Licensee shall be responsible to pay for the cost of services provided by Utility in support of the design, installation, and maintenance of Licensee's Wireless Facilities, including Utility's costs for Make-Ready Surveys (including pole-loading analyses), Make-Ready Work, and Post-Construction Inspection.
- 4.2 Determination of Charges. Unless otherwise provided in this Agreement, wherever this Agreement requires Licensee to pay for work done or contracted for by Utility, the charge for such work shall include all material, labor, engineering, and administrative costs as applicable. Utility shall bill its services based upon actual costs, and such costs will be determined in accordance with Utility's cost accounting system used for recording capital and expense activities. Upon Licensee's request, Utility shall provide Licensee with documentation of charges and costs to be paid by Licensee.
- 4.3 Payment of Invoices. All invoices submitted to Licensee pursuant to this Agreement must be paid within 30 days.
- 4.4 Late Fee. Late fees of 1% per month will be applied to all balances due under this Agreement that are not paid within 30 days of the due date. Failure to pay such fees by the specified payment date shall constitute a default under this Agreement.
- 4.5 Advance Payment.
- 4.5.1 At the discretion of Utility, Licensee shall pay in advance all reasonable costs, including, but not limited to, administrative, construction, inspection, and Make-Ready Work expenses, in connection with Licensee's Wireless Attachments.
- 4.5.2 Wherever Utility requires advance payment of estimated expenses prior to the undertaking of an activity under this Agreement and the actual cost of such activity exceeds the estimated cost, Licensee agrees to pay Utility for the difference in cost if that amount exceeds the amount stated in the latest version of Wis. Admin. Code § PSC

113.1009. To the extent that the actual cost of the activity is less than the estimated cost, Utility agrees to refund to Licensee the difference in cost if that amount exceeds the amount stated in § PSC 113.1009.

ARTICLE 5: PERMIT APPLICATION REQUIREMENTS

5.1 Permit Required.

- 5.1.1 Licensee shall not install, modify, or remove any Wireless Attachments (other than Micro Wireless Facilities) without first applying for and obtaining a Permit. A Permit is not required for routine maintenance, but notice may be required as set out in Section 8.1. For the sake of clarity, a like-for-like replacement of a Wireless Facility or any Wireless Equipment is a modification requiring a Permit under this Agreement. A Permit is not required for the removal of Wireless Equipment under Section 16.2.
- 5.1.2 Attachments to structures other than Poles within or outside of public right-of-way owned and controlled by the City are not covered by this Agreement. With respect to such structures, Licensee must negotiate a separate attachment agreement with the City.

5.2 Micro Wireless Facilities.

- 5.2.1 Notwithstanding Section 5.1.1, Licensee shall not install or remove a Micro Wireless Facility without first giving Utility at least 15 days' advance notice. Such notice shall describe the proposed work, state the location of the work, and provide a work schedule.
- 5.2.2 If, after installation of the Micro Wireless Facility, Utility determines that a Make-Ready Survey is necessary to determine whether the facility may cause the Utility Poles supporting the facility to fall out of compliance with Engineering Standards, Utility may conduct a Make-Ready Survey at Licensee's expense. If, as a result of the Survey, Utility must modify the affected Poles to bring them into compliance, Licensee shall be responsible for the cost of such modifications.

- 5.3 Licensee's Certification. If Licensee believes that its Wireless Facility may be installed without the need to conduct a Make-Ready Survey, Licensee must certify in its Permit Application that Licensee's Wireless Facility can be installed on the identified Poles in compliance with all applicable Engineering Standards. Such certification must be made by a Wisconsin-licensed professional engineer.

5.4 Review of Permit Application.

- 5.4.1 *Complete Application.* Utility shall review Licensee's Permit Application for completeness before reviewing the application on its merits.
- 5.4.1.1 A complete Permit Application is an application that provides Utility with all the information listed on the Permit Application form and all information necessary under this Agreement for Utility to begin to Survey the affected Poles.

5.4.1.2 If Licensee submits an incomplete Permit Application, Utility shall, within 10 business days, inform Licensee of that fact and provide a list of information that still needs to be provided. If the resubmitted Permit Application is still incomplete, Utility shall, within five business days, inform Licensee of that fact and provide a list of information that still needs to be provided.

5.4.2 *Issuance of Permit.*

5.4.2.1 Upon receipt of a complete Permit Application, Utility will review the Permit Application within 60 days (or within 90 days if Licensee requests access to multiple Poles or involves new or replacement poles) and either grant or deny the Permit.

5.4.2.2 During such 60-day (or 90-day) period, Utility will discuss any issues with Licensee, including any unusual engineering and Make-Ready Work requirements associated with the Permit Application. Utility's acceptance of Licensee's submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis.

5.4.2.3 If Utility denies the Permit, it shall do so in writing and provide an explanation of the reasons the Permit was denied.

5.4.2.4 For the sake of clarity, the make-ready process described in Sections 5.5, 5.6, and 5.7 applies only to Utility Poles and Streetlight Poles. Decorative Streetlight Poles are governed by Article 19.

5.5 Make-Ready Survey.

5.5.1 *Survey.* During the Permit Application review period, Utility may perform the Make-Ready Survey, using its own personnel or a contractor, and charge Licensee for the cost of the Survey. Alternately, Utility may require Licensee to conduct and submit to Utility a Make-Ready Survey at Licensee's expense.

5.5.2 *Notice of Field Inspection.* The party performing the Make-Ready Survey will use commercially reasonable efforts to provide the other party and any affected third-party attachers with three business days' notice of any field inspection that is part of the Make-Ready Survey and will allow the other party and any affected third-party attachers to be present for the field inspection.

5.5.3 *Other Attachers.* If the participation of an existing third-party attacher is required for a Make-Ready Survey, Licensee shall coordinate and be responsible for obtaining the third-party attacher's participation.

5.6 Cost Estimate and Payment of Make-Ready Work.

5.6.1 *Cost Estimate and Advance Payment.* Licensee will be responsible for payment to Utility for all Make-Ready Work required to accommodate Licensee's Wireless Attachments on a Utility Pole or a Streetlight Pole pursuant to Section 4.5. Utility shall provide an

estimate of charges to perform all necessary Make-Ready Work within 14 days of approving a Permit Application, and Licensee shall pay all such charges before Utility commences the Make-Ready Work.

5.6.2 *Replacement of Utility Poles and Streetlight Poles.* In the event replacement of a Utility Pole or a Streetlight Pole is required to accommodate the installation of Licensee's Wireless Facility, Licensee shall pay all costs related to such pole replacement including, but not limited to, the cost of the new pole, transfer of all existing facilities of Utility and any third-party attachers, and removal and disposal of the old pole. Payment of pole replacement costs does not grant Licensee any ownership interest in the new pole. Licensee shall not be entitled to reimbursement from Utility of any amounts paid to Utility for pole replacements or for rearrangement of attachments on Utility Poles or Streetlight Poles by reason of the use by Utility or other third-party attachers of any additional space resulting from such replacement or rearrangement.

5.7 Performance of Make-Ready Work.

5.7.1 *Performance of Make-Ready Work.* Make-Ready Work shall be performed only by Utility and/or a contractor authorized by Utility to perform such work. If Utility cannot perform the Make-Ready Work to accommodate Licensee's Facilities within time period specified in the work schedule provided pursuant to Section 5.7.2, Licensee may seek permission from Utility for Licensee to perform such work itself or employ a qualified contractor to perform the work. Any person, company, or contractor who performs Make-Ready Work must be preapproved by Utility.

5.7.2 *Work Schedule.* Utility agrees to submit an estimated schedule for the completion of Make-Ready Work within 15 days of Utility's receipt of Licensee's advance payment for the Make-Ready Work. Licensee acknowledges that actual completion of the Make-Ready Work will depend on timely completion of all required Make-Ready Work by Licensee and other third-party attachers that must be completed prior to Utility's performance of its Make-Ready Work. Timely completion of Make-Ready Work may also depend on whether the work is subject to Wisconsin's public bidding law requirements.

5.7.3 *Priority Scheduling of Make-Ready Work.* In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of Utility's Normal Business Hours and Utility agrees to so perform the work, Licensee agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Licensee's work before other scheduled work or Utility's own service restoration.

5.7.4 *Notice to Third-Party Attachers.* If the Make-Ready Work necessary to accommodate Licensee's Wireless Attachments involves third-party attachers, Utility shall provide notice to such attachers (with a copy to Licensee, along with the attacher's contact information) upon Utility's receipt of Licensee's advance payment for Make-Ready Work under Section 5.6.1. The notice shall contain the following information: (i) the identity of the Poles requiring Make-Ready Work; (ii) a description of the Make-Ready Work to

be performed; (iii) the date such work is scheduled to be completed; and (iv) the date by which the third-party attacher must complete its share of the Make-Ready Work.

ARTICLE 6: INSTALLATION OF LICENSEE'S WIRELESS FACILITIES

- 6.1 Installation. Upon completion of all required Make-Ready Work and after Licensee has obtained all required federal, state, and local permits and approvals, and any necessary easements or other permissions under Section 2.7, Licensee may proceed to install the approved Wireless Facility with its own employees or contractors, provided that there is a Journeyman Lineman present at all times during installation. Once installation commences, such work shall be performed continuously until completion, unless Utility otherwise agrees.
- 6.1.1 All of Licensee's installation, removal, and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of Utility's Poles or equipment or any other third-party attacher's equipment attached thereto.
- 6.1.2 All of Licensee's installation, removal, and maintenance work performed on Poles or in the vicinity of other Utility facilities, either by its employees or contractors, shall be in compliance with all applicable Laws, Engineering Standards, and Good Utility Practice. Licensee shall ensure that any person installing, maintaining, or removing its Wireless Facilities is fully qualified and familiar with all Engineering Standards, including the provisions of Articles 11, 12, and 13.
- 6.1.3 As the electric service provider, Utility will be responsible for the installation, removal, connection, and disconnection of all electric service connections required to operate Licensee's Wireless Facility.
- 6.1.4 Any strengthening of Poles through the use of guying to accommodate Licensee's Wireless Attachments shall be provided by Licensee at Licensee's expense and to the satisfaction of Utility.
- 6.2 Inspections. Utility shall have the right to conduct Post-Construction Inspections of Licensee's Wireless Facilities at Licensee's expense.
- 6.3 Radio Frequency Hazard Area. Licensee agrees to provide site-specific radio frequency (RF) emission data and required worker clearances from operational Wireless Facilities.
- 6.4 Ground-Mounted Enclosures. Licensee shall not place new pedestals, vaults, or other ground-mounted enclosures within [10] feet of any Pole or other Utility facility without Utility's prior written permission. Licensee shall specifically identify this request in its Permit Application. If permission is granted by Utility, all such installations shall be in compliance with the Engineering Standards.
- 6.5 Posting of Contact Number. Licensee shall post a notice at each pole site at which it maintains a Wireless Facility. Such notice shall provide Licensee's name and a 24-hour contact number, and shall be updated by Licensee whenever its name or contact number changes.

ARTICLE 7: WORK IN AND ACCESS TO THE SUPPLY SPACE

- 7.1 Scheduled Work in the Supply Space. Licensee shall submit to Utility the name of any contractor proposed to perform work on Licensee's behalf within the Supply Space, together with a summary of the work to be completed and proposed work schedule, at least 10 business days prior to commencement of any installation, maintenance, modification, or removal of Licensee's Wireless Facilities. Contractor must have a Journeyman Lineman present at all times for any work within Supply Space.
- 7.2 Qualified Workers. Licensee warrants that all of Licensee's employees, agents, and contractors that work within the Supply Space are Qualified Electrical Workers and that those who work within the Communications Space are Qualified Communications Workers and further acknowledges that a Journeyman Lineman must be present for all installation, maintenance, modification or removal work.
- 7.3 Emergency Access. In the event that Licensee requires Emergency access to its Wireless Equipment located in the Supply Space, Licensee shall call Utility's emergency number to request such access (see Contact Sheet attached as Appendix B).

The caller should provide the following:

- Name of company making report;
- Location of the problem;
- Name of contact person reporting problem;
- Telephone number to call back for a progress report;
- Description of the problem in as much detail as possible;
- Time and date the problem occurred or began;
- Proposed corrective actions; and
- If appropriate, a statement that “**This is an emergency**” and that a problem presents a hazardous situation to the physical plant of Utility, Licensee, or others, as the case may be.

ARTICLE 8: MAINTENANCE OF LICENSEE'S WIRELESS FACILITIES

- 8.1 Maintenance and Notice. Licensee shall be responsible for the maintenance of its Wireless Facilities at its sole cost and expense. When maintenance requires work in the Supply Space, Licensee shall comply with the provisions of Article 7. When maintenance does not require work in the Supply Space, no advance notice to Utility is required.
- 8.2 Maintenance to Be Performed During Normal Business Hours. Unless Utility otherwise agrees, Licensee will perform routine maintenance and installation of Wireless Equipment in the Supply Space only during Utility's Normal Business Hours.
- 8.3 Emergency Maintenance; Authorization Required. Utility agrees to not unreasonably delay, restrict, or deny Licensee access to its Wireless Equipment located in the Supply Space for Emergency maintenance. Notwithstanding the above, Licensee shall not access the Supply

Space to perform Emergency maintenance without first obtaining Utility's authorization pursuant to Section 7.3 (see Contact Sheet attached as **Appendix B**), which authorization shall not be unreasonably withheld, conditioned, or delayed.

- 8.4 **Removal of Abandoned Facilities.** At its sole expense, Licensee shall remove any of its Wireless Equipment that has not operated for a continuous period of 12 months, which shall at that point be deemed abandoned. Licensee shall remove such equipment within 180 days of its abandonment, unless Licensee receives written notice from Utility that removal of the abandoned equipment is necessary to accommodate Utility's or a third-party attacher's use of the affected Poles, in which case Licensee shall remove such abandoned equipment within 60 days of receiving the notice, or within a shorter time period as necessary to accommodate Utility's or a third-party attacher's use. Licensee must obtain a Permit authorizing the removal of the abandoned equipment. If Licensee fails to remove its abandoned equipment within the requisite time period, Section 18.1.2 shall apply.
- 8.5 **Annual Reporting Requirements.** On each anniversary of the Effective Date, Licensee shall submit a report to Utility at Utility's notice address in Section 20.1 in the form attached as **Appendix C** containing the information listed below. Licensee's failure to timely provide the information within 45 days following issuance of written notice by Utility of the failure to timely comply shall be a material breach of this Agreement and also result in Utility suspending all work on Licensee's pending Permit Applications or on such applications as may be submitted after the suspension date. Within three business days of Utility receiving the updated report, Utility shall resume processing Licensee's Permit Applications in the order that they were initially received by Utility.
- 8.5.1 *List of New Wireless Attachments.* Licensee shall provide a list of specific Poles (by Utility Pole number, if available) on which Licensee has installed, during the previous 12-month reporting period, new Wireless Attachments, including any Wireless Equipment for which no Permit was required under this Agreement.
- 8.5.2 *List of Modifications to Wireless Attachments.* Licensee shall provide a list of all Wireless Equipment modified (including equipment replaced by substantially similar equipment) during the previous 12-month reporting period and identify the location of such equipment by Pole (by Utility Pole Number, if available).
- 8.5.3 *List of Nonfunctional Wireless Equipment.* Licensee shall provide a list of all Wireless Equipment that has become nonfunctional during the previous 12-month reporting period. The report shall identify the location of such equipment by identifying the specific Pole (by Utility Pole number, if available) on which the nonfunctional equipment is located and provide a description of the nonfunctional equipment.
- 8.5.4 *Removed Wireless Equipment.* Licensee shall provide a list of all Wireless Equipment removed (and not replaced by substantially similar equipment) from specific Poles (by Utility Pole number, if available) during the previous 12-month reporting period. The report shall identify the Pole from which the equipment was removed, a description of the removed equipment, and indicate the approximate date of removal.

- 8.5.5 *Updated Contact Information.* Licensee shall provide updated contact information if such information has changed from the previous year.
- 8.6 Priority Restoration of Utility Service. In the event of widespread interruptions of Utility's and Licensee's Wireless Facilities (e.g., a major storm or other event of force majeure) in connection with damage to Utility's Poles, Utility shall use Good Utility Practice to support restoration of the damaged Poles and Licensee's efforts to restore its Wireless Facilities, consistent with Utility's priority obligations to its core electric utility business. In the event of localized interruptions (e.g., motor vehicle accidents), Utility shall notify Licensee of the incident after taking any required actions to clear and restore the site. Licensee shall reimburse Utility for all support services provided by Utility to clear and/or assist in the restoration of Licensee's Wireless Facilities. Utility shall invoice Licensee for such costs and expenses. Licensee shall pay such invoice within 30 days of receipt.
- 8.7 Vegetation Management. Licensee shall be responsible for all tree trimming and other vegetation management necessary for the safe and reliable installation, use, and maintenance of its Wireless Attachments and to avoid stress on Poles caused by contact between tree limbs and Licensee's Attachments. If Licensee's personnel or tree trimming contractor fails to adhere to and comply with applicable Laws and Engineering Standards, Licensee will be required to remedy any and all out-of-compliance tree trimming or other vegetation management work. If Licensee fails to carry out the remedy within 30 days after receiving notice of such failure, then Utility may perform the work using its own personnel or a contractor. Licensee shall be responsible for paying Utility for 110% of the costs Utility incurs in taking action under this provision.

ARTICLE 9: SPECIFICATIONS

- 9.1 Specifications. Licensee shall install and maintain each Wireless Facility in accordance with all Engineering Standards Good Utility Practice, and any and all Laws. All fees, notices, permits, approvals, certifications, and licenses, and any necessary easements or other permissions under Section 2.7 required for the installation, maintenance, and operation of Licensee's Wireless Facilities shall be obtained and paid for by Licensee and shall be provided to Utility at no charge prior to the start of work and at any other time upon Utility's request.
- 9.2 Identification of Facilities/Tagging. Licensee shall identify by tagging its Wireless Facility attached to a Pole or on a span of wire or cable running between two Poles. Tag placement shall comply with all applicable Engineering Standards.
- 9.3 Protective Equipment. Licensee and its employees and contractors shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall, at its own expense, install protective devices designed to handle the voltage and current impressed on its Wireless Equipment in the event of contact with the electric supply conductor.
- 9.4 Violation of Specifications. If any one of Licensee's Wireless Facilities, or any part thereof, is installed, used, or maintained in violation of this Agreement, and Licensee has not corrected the violation(s) within 30 days from receipt of written notice of the violation(s) from Utility, Utility may, at its own option, correct those conditions or proceed to terminate the Permit under Article

16. Utility will attempt to notify Licensee in writing prior to performing such work, whenever practicable. When Utility reasonably believes, however, that a violation poses an immediate threat to the safety of any person, interferes with the performance of Utility's service obligations, or poses an immediate threat to the physical integrity of Utility's electric facilities, Utility may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Utility will advise Licensee of the work performed or the action taken. Licensee shall be responsible for paying Utility for 110% of the costs Utility incurs in taking action under this provision.

ARTICLE 10: INTERFERENCE

- 10.1 No Interference with Utility. Licensee shall not use or operate its Wireless Equipment in a manner that will interfere with Utility's use of the Pole. For the purposes of this Article 10, the term “**interfere**” or “**interference**” includes, but is not limited to, blocking of access to the Pole, radio frequency interference, mechanical interference, or any interference with Utility's equipment. In the event any such interference occurs, Licensee shall use best efforts to (i) remedy such interference no later than 24 hours after telephone and/or email notice has been sent to Licensee's emergency contact person (see Contact Sheet attached as **Appendix B**) or (ii) cease operation of the Wireless Facility or Wireless Equipment causing the interference until such interference can be eliminated with Utility's support, if required. If Licensee fails to timely remedy the interference or power down the Wireless Equipment responsible for the interference, Utility reserves the right to cut off electricity to the Wireless Facility. If Licensee is unable to eliminate the interference within 14 business days of the telephone and/or email notice, Utility shall have the right to terminate the Permit related to the Wireless Facility causing such interference, and the termination provisions of Article 16 shall apply. If Licensee fails to timely remove its Wireless Facility, Section 18.1.2 shall apply.
- 10.2 Emergencies; Notice. In the event of an Emergency, Utility reserves the right to take any action it deems necessary with respect to any Wireless Facility in order to avert or remedy the Emergency. In such an Emergency, Utility shall give notice to Licensee's emergency contact as soon as reasonably possible.
- 10.3 No Interference with Third-Party Attachers. Licensee shall not use or operate its Wireless Facility in a manner that will cause interference with any other third-party attacher's use of the Pole, provided that such other third-party attacher's installation predates the installation of Licensee's Wireless Facility causing the interference. In the event any such interference occurs, Licensee will (i) remedy such interference within 72 hours after learning of such interference or (ii) cease operation of its Wireless Facility or Wireless Equipment causing the interference until such interference can be eliminated with Utility's support, if required. If Licensee is unable to eliminate such interference, Utility shall have the right to terminate the Permit for the Wireless Facility causing such interference, and the termination provisions of Article 16 shall apply. Licensee shall cease operation of such Wireless Facility immediately upon receipt of notice pursuant to Article 16. If Licensee fails to timely remove its Wireless Facility, Section 18.1.2 shall apply.
- 10.4 Cooperation for Access. If Utility, Licensee, or other authorized third-party attachers require access to the Pole and such access is restrained as a result of Utility's or Licensee's operational

equipment, Licensee and Utility shall work cooperatively to develop and support access requirements. Such work may require temporarily ceasing wireless operations to comply with such standards.

- 10.5 Maintenance on Utility's Pole Structures. Utility may, in its sole discretion reasonably exercised, de-energize any pole-mounted Wireless Equipment any time its personnel or contractors are doing maintenance work on such Poles. Utility shall endeavor to provide at least 24 hours' advance notice of planned maintenance work to Licensee's Network Operations Center by voice message or email (see Contact Sheet attached as Appendix B). Advance notice of the de-energization of Wireless Equipment need not be provided in Emergency situations.

ARTICLE 11: INSURANCE

- 11.1 Policies Required. At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:

- 11.1.1 *Workers' Compensation and Employers' Liability Insurance.* Statutory workers' compensation benefits and employers' liability insurance policy with a limit of \$1,000,000 each accident/disease.
- 11.1.2 *Commercial General Liability Insurance.* Commercial general liability policy with a limit of \$5,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including, but not limited to, premises, operations, products and completed operations, personal and advertising injury, blanket contractual coverage, independent contractor's coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities (commonly known as XCU coverage).
- 11.1.3 *Commercial Automobile Liability Insurance.* Commercial automobile liability policy in the amount of \$5,000,000 combined single limit each accident for bodily injury or property damage covering all owned, hired, and non-owned autos and vehicles.
- 11.1.4 *Excess/ Umbrella Liability Insurance.* Excess/umbrella liability policy with a limit of \$1,000,000 per occurrence and aggregate providing coverage to be in excess of employers' liability, commercial general liability, and automobile liability insurance required above.
- 11.1.5 *Property Insurance.* Each party to this Agreement will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Utility's facilities to fully protect against hazards of fire, vandalism, and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance, or shall self-insure such exposures.

- 11.2 Qualification. The insurer must be authorized to do business under the laws of the State of Wisconsin and have an "A" or better rating in Best's Guide.

- 11.3 Contractors and Subcontractors. Licensee shall require all of its contractors and their subcontractors performing any work for Licensee under this Agreement to obtain and maintain substantially the same coverage with substantially the same limits as required of Licensee. Prior to any such contractor or its subcontractors performing any work for Licensee under this Agreement, Licensee shall furnish Utility with a Certificate of Insurance for each such contractor or subcontractor.
- 11.4 Certificate of Insurance; Other Requirements.
- 11.4.1 Upon the execution of this Agreement and within 15 days of each insurance policy expiration date during the term of this Agreement, Licensee will furnish Utility with a certificate of insurance evidencing the coverage required by this Agreement. The certificates shall reference this Agreement and the waiver of subrogation required in Section 11.1.1.
- 11.4.2 Utility shall be included as an “**Additional Insured**” as its interest may appear under this Agreement under all of the policies required by Section 11.1, except worker's compensation and employer's liability, which shall be so indicated on the certificate of insurance.
- 11.4.3 All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis.
- 11.5 Limits. The limits of liability set out in this Article 11 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any relevant factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans or laws which would materially increase or decrease Utility's or Licensee's exposure to risk.
- 11.6 Accident or Incident Reports. Licensee shall promptly furnish Utility with copies of any accident or incident report(s) sent to Licensee's insurance carriers covering accidents or incidents occurring in connection with and/or as a result of the performance of the work under this Agreement.
- 11.7 No Limitations. Nothing contained in these insurance requirements is to be construed as limiting the extent of either party's responsibility for payment of damages resulting from either party's activities under this Agreement or limiting, diminishing, or waiving Licensee's obligation to indemnify, defend, and save harmless Utility as set forth in Article 12.
- 11.8 Primary Insurance. It is the intent of both parties that Licensee's policies of liability insurance in place in accordance with the provisions of this Article 11 shall be primary insurance but only with respect to Licensee's indemnification obligations hereunder.

ARTICLE 12: INDEMNIFICATION AND LIABILITY

- 12.1 Indemnification. Licensee, and its employees and agents (“**Indemnifying Parties**”) shall defend, indemnify, and hold harmless the City and its officials, employees, commissioners, board members and council members (“**Indemnified Parties**”) against any and all liability, costs,

damages, fines, taxes, penalties, , and expenses (including reasonable attorney's fees of Utility and all other costs and expenses of litigation) (“**Covered Claims**”) that may be asserted by any person or entity and arise from any act, omission, failure, negligence, or willful misconduct, in connection with the construction, maintenance, repair, use, relocation, transfer, or removal by Licensee or by another Indemnifying Party, of Licensee's Wireless Facility or Wireless Equipment, except to the extent of Utility's negligence or willful misconduct gives rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

- 12.1.1 Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents as associated with Licensee’s use;
 - 12.1.2 Cost of work performed by Utility that was necessitated by Licensee's or another Indemnifying Party's failure to install, maintain, use, transfer, or remove Licensee's Wireless Equipment in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes Utility to perform on Licensee’s behalf;
 - 12.1.3 Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Licensee or other Indemnifying Party pursuant to this Agreement;
 - 12.1.4 Liabilities incurred as a result of Licensee's violation, or a violation by an Indemnifying Party of any law, rule, or regulation of the United States, any state, or any other governmental entity or administrative agency.
- 12.2 Procedure for Indemnification.
- 12.2.1 Utility shall give prompt written notice to Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third party against Utility, Utility shall give the notice to Licensee no later than 15 days after Utility receives written notice of the action, suit, or proceeding.
 - 12.2.2 Utility's failure to give the required notice will not relieve Licensee from its obligation to indemnify Utility unless, and only to the extent that, Licensee is materially prejudiced by such failure.
 - 12.2.3 Licensee will have the right at any time, by notice to Utility, to participate in or assume control of, the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to Utility. Utility agrees to cooperate fully with Licensee.
 - 12.2.4 If Licensee assumes the defense of a third-party claim as described above, then in no event will Utility admit any liability with respect to, or settle, compromise, or discharge, any third-party claim without Licensee's prior written consent.

ARTICLE 13: LIMITATION OF LIABILITY

- 13.1 Limited Liability. Regardless of any other provision of this Agreement, and with the exception of any third-party indemnity obligations, under no circumstances will either party be liable to the other, whether in contract, tort (including negligence and strict liability), warranty, or any other legal theory, for any incidental, indirect, special, or consequential damages whatsoever, such as, but not limited to, loss of profits or revenue, cost of capital or of substitute use or performance, interruptions to operations, or for claims for damages by or to the other party's customers. Furthermore, Utility will not be held liable for the accuracy or integrity of any data or message communicated over Licensee's Wireless Facilities.
- 13.2 Environmental Hazards. The City hereby represents that it has no actual knowledge that the Poles and property adjacent to the Poles contain any Hazardous Substances. Licensor also represents that it does not bring upon, use in, or release from the Poles any Hazardous Substances, nor does its license agreements with other licensees permit the use or storage of Hazardous Substances in, on or about the Poles. Licensee represents and warrants that its use of Poles will not generate any Hazardous Substances, that it will not store or dispose on or about Poles or transport to Poles any Hazardous Substances, and that Licensee's Wireless Facilities will not constitute or contain and will not generate any Hazardous Substances in violation of state or federal law now or hereafter in effect, including any amendments. "**Hazardous Substance**" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its Wireless Facility would not release such Hazardous Substances.
- 13.3 Municipal Liability Limits. No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Utility or its insurer of the provisions of Wis. Stat. § 893.80, or any other applicable limits on municipal liability.

ARTICLE 14: PERFORMANCE BOND

- 14.1 Duty to Obtain Bond. Licensee shall obtain and maintain at its sole cost a corporate surety bond securing performance of its obligations and guaranteeing faithful adherence to the requirements of this Agreement. The bond shall be: (a) in an amount not less than \$10,000; (b) issued by a surety company licensed to do business in the State of Wisconsin; and (c) under terms and conditions acceptable to the City Attorney.
- 14.2 Time Period to Obtain Bond. Licensee shall obtain the bond prior to making any Wireless Attachments under this Agreement and no later than the 30th day after the Effective Date. Licensee shall renew the bond as necessary to keep it in full force throughout the term of this Agreement and for so long thereafter as Licensee maintains any Wireless Attachments on Utility's Poles.
- 14.3 Bond Does Not Limit Other Rights and Remedies. The rights reserved to Utility under the bond are in addition to all other rights. No action, proceeding, or exercise of a right regarding the

bond shall affect Utility's rights to demand full and faithful performance under this Agreement or limit Licensee's liability for damages.

ARTICLE 15: TERM

15.1 Term. This Agreement is effective as of the Effective Date and shall continue in effect for an initial term of five years. Thereafter, this Agreement shall automatically renew from year to year unless terminated by either party by giving written notice of its intention to do so not less than 90 days prior to the end of any term.

ARTICLE 16: TERMINATION

16.1 Utility's Right to Terminate. Utility shall have the right to terminate this Agreement and/or any Permit, if:

- 16.1.1 Licensee fails to comply with any provision of this Agreement or defaults in any of its obligations under this Agreement, and Licensee fails within 45 days after written notice from Utility to correct such noncompliance or default. In such event, Utility may, at its option, and without further notice, declare this Agreement to be terminated in its entirety, or may terminate the Permit covering the Wireless Attachment(s) with respect to which such default or noncompliance shall have occurred. Excepting safety-code related defaults, if the default is of such a nature that it cannot be corrected within 45 days, Licensee's obligation is satisfied if Licensee, within 45 days, submits to Utility a reasonable written plan and work schedule to correct the default promptly and completes that plan on schedule and with reasonable diligence.
- 16.1.2 Licensee's Wireless Facilities are installed, operated, used, maintained, and/or modified in violation of any Law or in aid of any unlawful act or undertaking. Utility agrees not to terminate any Permit under this provision for a period of 45 days, provided that Licensee ceases operations at the site of the violation(s) and is making diligent efforts to correct the violation(s). Licensee shall provide Utility with prompt written notice of any such action under which operation or use of the Wireless Facility or Facilities is denied, revoked, canceled, or reinstated.
- 16.1.3 Any authorization that may be required by any federal, state, or local government or regulatory authority with respect to the installation, operation, use, maintenance, or modification of a Wireless Facility is denied, revoked, or canceled. Utility agrees not to terminate any Permit under this provision for a period of 180 days after receipt of notice of the denial, revocation, or cancellation, provided that Licensee ceases operations at the affected site and is making diligent efforts to obtain or reinstate such authorization(s). Licensee shall provide Utility with prompt written notice of any such action under which operation or use of the Wireless Facility is denied, revoked, canceled, or reinstated.
- 16.1.4 Utility, in its reasonable discretion, believes that termination of any Permit is necessary to ensure the safe and reliable operation and maintenance of Utility's electric system under Section 2.4. Utility will provide at least 30 days' advance notice of termination of any Permit pursuant to this Section.

- 16.2 Removal of Wireless Facilities on Termination. In the event of termination of this Agreement, Licensee shall, in lieu of a Permit Application, submit a plan and schedule to Utility under which Licensee will remove, using its own personnel or a contractor, all of its Wireless Facilities and associated Wireless Equipment located on or near Utility's Poles within 90 days from date of termination; provided however, that Licensee shall be liable for and pay all fees pursuant to the terms of this Agreement to Utility until Licensee's Wireless Facilities and associated Wireless Equipment are removed. In the event that Licensee fails to vacate the Pole or fails to remove all of its Wireless Equipment, Utility shall have the right, after giving at least 10 days' prior written notice to Licensee, to remove the remaining Wireless Equipment in which event such Wireless Equipment may be retained by Utility as its property without accounting to Licensee therefore, and the expense of such removal and repairs shall be charged to and paid by Licensee without credit for the value, if any, of such Wireless Equipment. Section 18.1.2 applies should Licensee fail to comply with this Section 16.2.
- 16.3 Survival of Obligations. Even after the termination of this Agreement, Licensee's responsibility and indemnity obligations under this Agreement shall continue with respect to any claims or demands related to Licensee's Wireless Facilities.

ARTICLE 17: DUTIES, RESPONSIBILITIES, AND EXCULPATION

- 17.1 Duty to Inspect. Licensee acknowledges and agrees that Utility does not warrant the condition or safety of Utility's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect Utility's Poles and/or the premises surrounding the Poles prior to commencing any work on Utility's Poles or entering the premises surrounding the Poles.
- 17.2 Knowledge of Work Conditions. By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its agents, servants, employees, contractors, and subcontractors with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3 **DISCLAIMER. UTILITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO ITS POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 17.4 Missing Labels. Licensee acknowledges that Utility does not warrant that all Poles are properly labeled and agrees that Utility is not liable for any injuries or damages caused by or in connection with missing labels or otherwise improperly labeled Poles. Licensee further agrees to notify Utility immediately if labels or tags are missing or otherwise believed to be improper; however, Utility agrees that Licensee is not liable for any injuries or damages caused by or in connection with Licensee's failure to so notify Utility.
- 17.5 Duty to Supervise. The parties further understand and agree that, in the performance of work under this Agreement, Licensee and its agents, servants, employees, contractors, and subcontractors will work near electrically energized lines, transformers, or other equipment of

Utility, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an Emergency. Licensee shall ensure that its employees, servants, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Utility, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, servants, agents, contractors, and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in an Emergency in which it may be necessary to de-energize any part of Utility's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

17.6 Requests to De-Energize.

17.6.1 In the event Utility, in its sole discretion, elects to de-energize any equipment or line at Licensee's request and for Licensee's benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Utility in full for all reasonable costs and expenses incurred in order to comply with Licensee's de-energization request. Except during an Emergency, Utility shall provide, upon Licensee's request, an estimate of all costs (including lost revenue) and expenses to be incurred in accommodating Licensee's de-energization request and, upon reviewing such estimate, Licensee shall confirm whether it intends to continue or withdraw such request.

17.6.2 Licensee shall not make or break electrical connection at Utility's electric service point at any time without Utility's authorization.

17.7 Interruption of Service. In the event that Licensee causes an interruption of service by damaging or interfering with any equipment of Utility's, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages directly resulting therefrom and shall notify Utility immediately.

17.8 Duty to Inform. Licensee further warrants that it understands the imminent dangers **(INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION)** inherent in the work necessary to make installations and removals and to engage in operations on Utility's Poles by Licensee's employees, servants, agents, contractors, or subcontractors, and accepts it as its duty and sole responsibility to notify and inform Licensee's employees, servants, agents, contractors, and subcontractors of such dangers, and to keep them informed regarding same.

ARTICLE 18: TRANSFERS AND ALLOCATION OF COSTS

18.1 Required Transfer, Rearrangement, or Removal of Licensee's Wireless Attachments.

18.1.1 If Utility reasonably determines that it is necessary for Licensee's Wireless Attachments to be transferred to a different or new Pole, rearranged on the same Pole, or removed from the Pole (including, due to an overhead to underground pole-line conversion or termination of a Permit) (collectively, "**Transfer**"), Licensee shall perform such work at

its own expense within 40 days after receiving written notice from Utility or within such other time period for the particular type of Transfer as is set out elsewhere in this Agreement (“**Transfer Period**”).

- 18.1.2 If Licensee fails to Transfer its Wireless Attachments as required under this Agreement within the requisite Transfer Period, Utility shall have the right to charge Licensee the Failure to Transfer Fee and/or to do the work itself using its own personnel or contractors and charge Licensee 110% of the actual costs incurred. Utility shall not be liable for damage to Licensee’s Wireless Equipment except to the extent provided in Article 13.
- 18.2 Allocation of Costs. The costs for any Transfer of Licensee's Wireless Attachments or the modification or replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Utility's cables or wires) shall be allocated to Utility, Licensee, or other third-party attacher on the following basis:
- 18.2.1 If Utility intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification or replacement of the Pole, and Licensee shall be responsible for the costs associated with the Transfer of its own Wireless Attachments. Prior to making any such modification or replacement, Utility shall provide Licensee prior written notice in order to allow Licensee a reasonable opportunity to elect to modify or add to its existing Wireless Attachments. If Licensee elects to add to or modify its Wireless Attachments within one year after receiving such notice, Licensee shall bear a pro rata share of the costs incurred by Utility in making the space on the Poles accessible to Licensee.
- 18.2.2 If the modification or replacement of a Pole is necessitated by the requirements of Licensee, Licensee shall be responsible for the costs related to the modification or replacement of the Pole and for the costs associated with the Transfer of any third-party attacher’s equipment. Licensee must submit to Utility evidence, in writing, that it has made arrangements to reimburse all affected third-party attachers for the cost to Transfer such attacher’s equipment. Utility shall not be obligated in any way to enforce or administer Licensee’s responsibility for the costs associated with the Transfer of a third-party attacher’s equipment pursuant to this provision.
- 18.2.3 If the modification or the replacement of a Pole is the result of an additional attachment or the modification of an existing attachment sought by an attacher other than Utility or Licensee, the attacher requesting the additional or modified attachment shall bear the entire cost of the modification or pole replacement as well as the costs associated with the Transfer of Licensee’s Wireless Attachments. Licensee shall cooperate with such third-party attacher to determine the costs of the Transfer of Licensee’s Wireless Attachments.
- 18.2.4 If a Pole must be modified or replaced for reasons unrelated to the use of the Pole (e.g., storm, accident, deterioration), Utility shall pay the costs of such modification or replacement; provided however, that Licensee shall be responsible for the costs of the Transfer of its Wireless Attachments.

18.3 Treatment of Multiple Requests for Same Pole. If Utility receives Permit Applications for the same Pole from two or more prospective attachers within a 60-day period, and accommodating their respective requests would require modification or replacement of the Pole, Utility will evenly allocate among such attachers the applicable costs associated with such modification or replacement.

18.4 Emergencies/Advance Notice.

18.4.1 The written advance notification requirement of this Article 18 shall not apply in an Emergency. During an Emergency, Utility shall provide such advance notice as is practical, given the urgency of the particular situation including a telephone call to Licensee's emergency number (see Contact Sheet attached as **Appendix B**). Utility shall then provide written notice of any such actions taken within 72 hours following the occurrence.

18.4.2 When Utility reasonably determines that a transfer of Licensee's Wireless Facility, or any component thereof, is immediately necessary due to an Emergency, Licensee agrees to allow such Transfer. In such instances, Utility will, at its option, either perform the Transfer using its own personnel and/or contractors or require that Licensee do so immediately. Utility shall not be liable for damage to Licensee's Wireless Equipment except to the extent provided in Section 13.1. Utility shall provide written notice of any such actions taken within 10 days of the occurrence.

18.5 Utility Not Required to Relocate. No provision of this Agreement shall be construed to require Utility to relocate its electric facilities on a Pole for Licensee's benefit.

ARTICLE 19: ATTACHMENT TO AND REPLACEMENT OF DECORATIVE STREETLIGHT POLES

19.1 Conditions for Attachment. In the event that no existing Utility Pole or Streetlight Pole is suitable for Licensee's purposes under this Agreement, Licensee may seek a Permit to attach to a Decorative Streetlight Pole or to replace an existing Decorative Streetlight Pole with a "**Replacement Pole**" that would accommodate Licensee's Wireless Attachments. Utility will not issue such a Permit unless all the following conditions are met:

19.1.1 The original equipment manufacturer of the Decorative Streetlight Pole makes hardware specifically for Wireless Facility attachment, and Utility approves such hardware.

19.1.2 The attachment of the Wireless Facility does not change the primary purpose of the Decorative Streetlight Pole, which shall remain the purpose for which the pole was originally installed, or cause the pole to be a "wireless tower or base station," within the meaning of Section 6409(a) of the Spectrum Act, 47 U.S.C. § 1455.

19.1.3 If streetlight fixtures and mast arms are replaced, the replacements shall match the arc and style of the original streetlight fixture and mast arm, unless otherwise approved by Utility. The replacement streetlight fixture and mast arm shall be at the same height above the ground as the existing streetlight fixture and mast arm.

- 19.1.4 To the extent commercially available and technologically compatible with Licensee’s local network, Licensee shall use Wireless Equipment that has the smallest visual profile and shall be sized appropriately to the scale of the Decorative Streetlight Pole. A decorative transition shall be installed over the equipment enclosure upper bolts, or a decorative base cover shall be installed to match the equipment enclosure size. All hardware connections shall be hidden from view, as much as reasonably possible.
- 19.2 Standards for Replacement of Decorative Streetlight Poles. In addition to the standards set out in Section 19.1, the following standards also apply to the replacement of an existing Decorative Streetlight Pole (“**Replacement Pole**”):
- 19.2.1 Replacement Poles shall be of a similar design, material, and color as the replaced pole and other Decorative Streetlight Poles within the immediate area, unless Utility approves an alternative design proposed by Licensee.
- 19.2.2 All Replacement Poles shall be constructed in the same location, or reasonably close to, the Decorative Streetlight Pole being replaced.
- 19.2.3 Replacement Poles shall be designed and engineered to support a streetlight fixture and, if applicable, a mast arm of length equal to that of the existing Decorative Streetlight Pole to be replaced or of a length approved by Utility based on the location of such pole.
- 19.2.4 All Replacement Poles shall have new streetlight fixtures of the same manufacturer, model, and light output as the removed fixture and nearby streetlight fixtures, or as otherwise approved by Utility.
- 19.2.5 Replacement Poles, including, but not limited to, the pole itself, head, fixtures, mast arm (if applicable) and electrical components, shall have a five-year manufacturer’s replacement warranty.
- 19.2.6 Replacement Poles shall meet all applicable Engineering Standards, including American Association of State Highway and Transportation Officials structural guidelines for roadway applications and the American National Standards Institute requirements for vibrations.
- 19.2.7 The height of the Replacement Poles be measured from the ground to the top of poles. All Replacement Pole heights shall be consistent with those of the poles being replaced or the existing poles in the immediate area and in accordance with any applicable statute or rule of law.
- 19.2.8 Each Replacement Pole component shall be architecturally compatible to create a cohesive aesthetic.
- 19.3 Cost Responsibility. Licensee shall be solely responsible for the following costs:
- 19.3.1 The cost of removing the pre-existing Decorative Streetlight Pole in a manner that will allow its reuse and delivering the pole to Utility’s storage yard.

- 19.3.2 The cost to design and install the Replacement Pole and to purchase and deliver at least one back-up Replacement Pole to Utility's storage yard to be used in the event the Replacement Pole is damaged and needs to be replaced. Utility may require purchase and delivery of additional back-up Replacement Poles, taking into account the number of Replacement Poles Licensee installs at any one time. Licensee shall be responsible for replenishing Utility's inventory of back-up Replacement Pole(s) as needed to maintain the required number in utility's storage yard at all times.
- 19.3.3 In the event a Replacement Pole is damaged and, in Utility's sole judgment, needs to be replaced, Utility shall, using its own personnel or a contractor, remove the damaged pole and install a back-up Replacement Pole. All such work shall be done at Licensee's expense. Licensee shall be responsible for replacing its Wireless Attachments on the back-up Replacement Pole.
- 19.4 Ownership of Replacement Poles. Upon completion of construction, inspection, and acceptance by Utility of a Replacement Pole and upon delivery to Utility of a back-up Replacement Pole, ownership of such Replacement Poles shall transfer to Utility.
- 19.5 Utility's Discretion. Notwithstanding anything to the contrary in this Article 19, Utility may, in its sole discretion, deny Licensee's application to attach to an individual Decorative Pole.

ARTICLE 20: NOTICES

- 20.1 Written Notices. Unless otherwise provided in this Agreement, any notice, request, consent, demand, or statement contemplated to be made by one party to or upon the other shall be in writing and shall be treated as duly delivered when it is either (i) personally delivered to the office of Utility in the case of notice to be given to Utility, or personally delivered to the office of Licensee in the case of notice to be given to Licensee or (ii) deposited in the United States Mail and properly addressed to the party to be served as follows:

If to Utility, to: Evansville Water & Light
 Attn: Municipal Services Director
 31 S Madison St
 PO Box 529
 Evansville, WI 53536]

If to Licensee, to: United States Cellular Operating Company LLC
 Attn: Real Estate Lease Administration
 8410 W. Bryn Mawr Avenue
 Chicago, IL 60631

or to such other address as either party may, from time to time, give the other party in writing.

- 20.2 Electronic Notices Allowed. The above notwithstanding, the parties may agree in specific instances to use electronic communications (such as email) for notifications related to the Permit Application and approval process and necessary transfers or pole modifications, but not for

tender of any legal notices. Licensee shall provide a local contact for all such notices upon execution of this Agreement.

- 20.3 Licensee's 24-hour Emergency Number. Licensee shall maintain a staffed 24-hour emergency telephone number (see Contact Sheet attached as **Appendix B**), not available to the general public, by which Utility can contact Licensee to report damage to Licensee's Wireless Facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to Utility's concerns and requests. Licensee's failure to maintain an emergency contact number shall eliminate Utility's liability to Licensee for any action Utility deems reasonably necessary given the specific circumstances.

ARTICLE 21: ASSIGNMENT

- 21.1 Assignment. Licensee may not assign or otherwise transfer its rights under this Agreement to any other person or entity without Utility's prior written consent, which consent shall not be unreasonably withheld.
- 21.2 Sub-Licensing. Licensee shall not sub-license any rights under this Agreement to any third party or Affiliate. Any such action shall constitute a material breach of this Agreement.
- 21.3 Obligations of Assignee/Transferee and Licensee. No assignment or transfer by Licensee of this Agreement shall be effective until the assignee or transferee acknowledges to Utility in writing that it agrees to assume all of Licensee's obligations arising under this Agreement. Licensee shall furnish Utility with written notice of the name, address, and contact information for the transferee or assignee.

ARTICLE 22: UNAUTHORIZED WIRELESS ATTACHMENTS

- 22.1 Unauthorized Wireless Attachment Fee.
- 22.1.1 Utility, without prejudice to its other rights or remedies under this Agreement, including but not limited to, requiring Licensee to immediately remove an Unauthorized Wireless Attachment, may require Licensee to submit a Permit Application and pay the Unauthorized Wireless Attachment Fee set out in **Appendix A** within 30 days after the date of written or email notification from Utility of an Unauthorized Wireless Attachment.
- 22.1.2 If such Permit Application is not received by Utility within the specified time period, Licensee shall remove the Unauthorized Wireless Attachment within seven days at its sole expense. In the event Licensee fails to remove the Unauthorized Wireless Attachment within the seven-day period, Utility may remove the Unauthorized Wireless Attachment without prior notice and without liability, using its own personnel and/or contractors, and charge Licensee 110% of the actual cost incurred.
- 22.2 Failure to Act. No act or failure to act by Utility under this Article 22 shall be deemed a ratification or grant of permission to Licensee to maintain the Unauthorized Wireless Attachment.

ARTICLE 23: PAYMENT OF TAXES

- 23.1 Each party shall pay all taxes and assessments lawfully levied on its own property, facilities, and equipment, whether free-standing or attached to Utility's Poles. The taxes and assessments that are levied on Utility's Poles shall be paid by Utility, but any tax, fee or charge levied on Utility's Poles solely due to Licensee's use shall be paid by Licensee. Licensee agrees that if any tax, fee, or charge is levied against Utility solely due to Licensee's equipment or facilities being attached to or supported by Utility's Poles, Licensee will reimburse Utility the full amount of said tax, fee, or charge.

ARTICLE 24: MISCELLANEOUS PROVISIONS

- 24.1 Amending Agreement. This Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both parties.
- 24.2 Entire Agreement. This Agreement and its appendices constitute the entire agreement between the parties concerning attachment of Licensee's Wireless Facilities to Utility's Poles. Unless otherwise expressly stated in this Agreement, all previous wireless attachment agreements, whether written or oral, between Utility and Licensee are superseded and of no further effect, except as to provisions that survive termination.
- 24.3 Severability. If any provision or portion thereof of this Agreement is declared invalid by a court or agency of competent jurisdiction, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement, but rather it is the intent of the parties that this Agreement be administered as if it did not contain the invalid provision.
- 24.4 No Waiver. If Utility fails to take action to enforce compliance with any of the terms and conditions of this Agreement, such failure shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.
- 24.5 Wisconsin Law Shall Apply. This Agreement is deemed executed in the State of Wisconsin and shall be construed under the laws of the State of Wisconsin without regard to its conflict of laws principles.
- 24.6 Venue for Litigation. In the event suit or action is instituted to enforce or interpret any of the terms of this Agreement, the parties agree that proper venue for such action or suit shall lie in the Circuit Court, County of Rock, State of Wisconsin.
- 24.7 Incorporation of Recitals and Appendices. The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.
- 24.8 Compliance with Laws. The parties shall comply with any and all Laws in performing their obligations under this Agreement.
- 24.9 No Third-Party Beneficiaries. Except as otherwise expressly stated, the parties have no intent to, and do not, create any third-party rights or interests in this Agreement.

- 24.10 Public Records. Materials provided to Utility pursuant to this Agreement are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, Licensee may designate items that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and Utility shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and Utility's determination that Licensee's request for confidential or proprietary treatment of the application materials is reasonable. Utility shall not be required to incur any costs to protect any materials submitted to Utility pursuant to this Agreement from disclosure.
- 24.11 Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original. Execution of this Agreement by facsimile or electronic signatures shall have the same legally binding effect as an original paper version.

Utility and Licensee have executed this Agreement in duplicate on the dates set forth on the signature pages that follow.

[SIGNATURE PAGES FOLLOW]

UTILITY:

**City of Evansville,
acting in its capacity as a Wisconsin public utility**

By:

Name: _____

Title: _____

Date: _____

LICENSEE:

United States Cellular Operating Company, LLC

By:

Name: _____

Title: _____

Date: _____

**APPENDIX A
FEES**

The fees set out in the Fee Schedule shall increase annually as provided in Article 3 and shown in the tables below.

FEE SCHEDULE	
Permit Application Fee	Initial Application: [\$100] per Pole for collocation on an existing Pole \$1000 per Pole for a new or replacement Pole Modification Application: [\$100] per Pole [2%] annual escalator
License Fee	[\$250] per Pole per year [2%] annual escalator
Unauthorized Wireless Attachment Fee	4 times the License Fee amount for each Unauthorized Wireless Attachment
Failure to Transfer Fee	¼ of the License Fee amount for each affected Pole for each day, until the Wireless Attachment is transferred, rearranged, or removed

ATTACHMENT PERMIT

- **Date Application Received by Utility:** _____
- **Date Attachment Permit Issued by Utility:** _____

Evansville Water & Light hereby grants **United States Cellular Operating Company, LLC** permission to attach, modify, or remove Wireless Attachment(s) and/or Wireless Equipment on the Poles indicated below, subject to the terms and conditions of the License Agreement for Wireless Attachments to Poles between the parties.

Poles for Wireless Attachments	Poles for Modifications	Vacated Poles
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____
4. _____	4. _____	4. _____
5. _____	5. _____	5. _____

[NAME OF UTILITY]

By: _____

Print Name: _____

Title: _____

**APPENDIX B
INITIAL CONTACT SHEET**

Licensee's contact information must be updated annually if it has changed from the previous year (see Section 8.5.5 of the Agreement and **Appendix C**).

UTILITY CONTACT INFORMATION		
	Phone Number(s)	Email
Business Hour Contact	(608)-882-2288	chad.renly@ci.evansville.wi.gov
Emergency Contact	(608)-921-9100	chad.renly@ci.evansville.wi.gov

LICENSEE CONTACT INFORMATION		
	Phone Number(s)	Email
Business Hour Contact		
Emergency Contact/NOC		
Billing Department		

**APPENDIX C
ANNUAL REPORT FORM**

This form is to be submitted annually in accordance with Section 8.5 of the Agreement.

12-Month Reporting Period: _____ to _____

NEW WIRELESS ATTACHMENTS	
Location (by Utility Pole number, if available)	Description

MODIFICATIONS TO PRE-EXISTING WIRELESS ATTACHMENTS	
Location (by Utility Pole number, if available)	Description

NON-FUNCTIONAL WIRELESS EQUIPMENT	
Location (by Utility Pole number, if available)	Description

REMOVED WIRELESS EQUIPMENT		
Location (by Utility Pole number, if available)	Description	Date of Removal

UPDATED CONTACT SHEET

This section should be filled out if Licensee’s contact information has changed from the previous year (see Section 8.5.5 of the Agreement).

UPDATED LICENSEE CONTACT INFORMATION		
	Phone Number(s)	Email
Business Hour Contact		
Emergency Contact/NOC		
Billing Department		

**CITY OF EVANSVILLE
ORDINANCE #2021-__**

**AN ORDINANCE REPEALING AND RECREATING ARTICLE IX OF CHAPTER 106
OF THE EVANSVILLE CODE OF ORDINANCES**

The Common Council of the City of Evansville, Rock County, Wisconsin, do hereby ordain as follows:

Evansville Municipal Code, Article IX of Chapter 160 shall be repealed and recreated as follows:

Article IX: Wireless Communications Facilities in the Right-of-Way

160-380: Definitions

For the purposes of this Article, the terms below shall have the following meanings:

“Administrator” means the Municipal Services Director or his or her designee.

“Application” means a formal request, including all required and requested documentation and information, submitted by an applicant to the City of Evansville for a wireless permit.

“Applicant” means a person or entity filing an application for a wireless permit under this Article.

“Base Station,” consistent with 47 C.F.R. § 1.6100(b)(1), means a structure or wireless equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers or any equipment associated with a tower.

“Eligible Facilities Request,” consistent with 47 C.F.R. § 1.6100(b)(3), means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

“FCC” means the Federal Communications Commission.

“Governmental Pole,” consistent with Wis. Stat. § 66.0414(1)(n), means a utility pole that is owned or operated by the City of Evansville in the right-of-way.

“Historic District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated as historic by the City of Evansville, listed on the national register of historic places in Wisconsin, or listed on the state register of historic places.

“Right-of-Way” means the surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane,

landscape terrace, shoulder, side slope, public sidewalk, or public utility easement over which the City of Evansville exercises any rights of management and control or in which the City of Evansville has an interest.

“Small Wireless Facility,” consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:

- (1) The structure on which antenna facilities are mounted, measured from ground level:
 - i. is 50 feet or less in height, or
 - ii. is no more than 10 percent taller than other adjacent structures, or
 - iii. is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;
- (2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration under 47 C.F.R. part 17;
- (5) The facility is not located on Tribal land as defined in 36 C.F.R. § 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

“Support Structure” means any structure in the right-of-way (other than an electric transmission structure) capable of supporting wireless equipment, including a utility pole, a wireless support structure as defined in Wis. Stat. § 66.0414(1)(zp), or a base station.

“Tower,” consistent with 47 C.F.R. § 1.6100(b)(9), means any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

“Transmission Equipment,” consistent with 47 C.F.R. § 1.6100(b)(9), means equipment that facilitates transmission for any FCC-licensed or authorized wireless

communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Underground District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated by the City of Evansville in which all pipes, pipelines, ducts, wires, lines, conduits, or other equipment, which are used for the transmission, distribution, or delivery of electrical power, heat, water, gas, sewer, or telecommunications equipment, are to be located underground.

“Utility Pole,” means a pole that is used in whole or in part by a communications service provider; used for electric distribution, lighting, traffic control, signage, or a similar function; or used for the collocation of small wireless facilities. “Utility pole” does not include a wireless support structure or an electric transmission structure.

“Utility Pole for Designated Services” means a utility pole owned or operated in a right-of-way by the City of Evansville that is designed to, or used to, carry electric distribution lines, or cables or wires for telecommunications, cable, or electric service.

“Wireless Equipment” means an antenna facility at a fixed location that enables wireless services between user equipment and a communications network, and includes all of the following: (a) equipment associated with wireless services; (b) radio transceivers, antennas, or coaxial, metallic, or fiber-optic cable located on, in, under, or otherwise adjacent to a support structure; (c) regular and backup power supplies; (d) equipment that is comparable to equipment specified in this definition regardless of technical configuration. “Wireless Equipment” does not include (a) the structure or improvements on, under, or within which the equipment is collocated; (b) wireline backhaul facilities; or (c) coaxial, metallic, or fiber-optic cable that is between utility poles or wireless support structures or that is not adjacent to a particular antenna. The definition of “Wireless Equipment” in this ordinance is consistent with the definition of “wireless facility” in Wis. Stat. § 66.0414(1)(z).

“Wireless Facility” or **“Facility”** means an installation at a fixed location in the right-of-way consisting of wireless equipment and the support structure, if any, associated with the wireless equipment.

“Wireless Infrastructure Provider” means any person or entity, other than a wireless services provider, that builds or installs wireless communications transmission equipment, antenna equipment, or wireless support structures.

“Wireless Permit” or **“Permit”** means a permit issued pursuant to this Article and authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the right-of-way, and the modification of

any existing support structure to which the wireless facility is proposed to be attached.

“Wireless Provider” means a wireless infrastructure provider or a wireless services provider.

“Wireless Regulations” means those regulations adopted pursuant to Section 160-384(b)(1) to implement the provisions of this Article.

“Wireless Services” means any service using licensed or unlicensed wireless spectrum, including the use of a Wi-Fi network, whether at a fixed location or by means of a mobile device.

“Wireless Service Provider” means a person or entity that provides wireless services.

Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002 and Wis. Stat. § 66.0414. In the event that any referenced statutory section is amended, creating a conflict between the definition as set forth in this Article and the amended language of the referenced statutory section, the definition in the referenced statutory section, as amended, shall control.

160-381: Purpose

In the exercise of its police powers, the City of Evansville has priority over all other uses of the right-of-way. The purpose of this Article is to provide the City of Evansville with a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the right-of-way consistent with the City of Evansville’s obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public’s use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless facilities. The City of Evansville recognizes the importance of wireless facilities to provide high-quality communications and internet access services to residents and businesses within the City of Evansville. The City of Evansville also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, Wis. Stat. § 196.58, and Wis. Stat. § 66.0414, as amended, and this Article shall be interpreted consistent with those provisions.

160-382: Scope

(a) **Applicability.** Unless exempted by Section (6), below, every person who wishes to place a wireless facility in the right-of-way or modify an existing wireless facility in the right-of-way must obtain a wireless permit under this Article.

(b) **Exempt Facilities.** The provisions of this Article (other than Sections 160-139 thru 160-392) shall not be applied to applications for the following:

(1) Installation, maintenance, operation, or replacement of a small wireless facility strung on cables between two existing utility poles in compliance with the National Electrical Safety Code, provided that the small wireless facility does not exceed 24 inches in length, 15 inches in width, and 12 inches in height and has no exterior antenna longer than 11 inches.

(2) Installation of a mobile cell facility (commonly referred to as “cell on wheels” or “cell on truck”) for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

(3) Placement or modification of a wireless facility by City of Evansville staff or any person performing work under contract with the City of Evansville.

(4) The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.

(5) Routine maintenance of a wireless facility.

(c) **Placement on City of Evansville-Owned or –Controlled Support Structures.**

Any applicant who wishes to place wireless equipment on a support structure owned or controlled by the City of Evansville, including governmental poles and utility poles for designated services, must obtain a wireless permit under this Article and enter into an attachment agreement with the City of Evansville. The agreement shall include provisions regarding make-ready work and specify the compensation to be paid to the City of Evansville for use of the support structure in accordance with the standards set out in Wis. Stat. § 66.0414(4), as amended. Unless prohibited by state or federal law, the person or entity seeking the agreement shall reimburse the City of Evansville for all costs the City of Evansville incurs in connection with its review of and action upon the request for an agreement.

160-383: Nondiscrimination

In establishing the rights, obligations, and conditions set forth in this Article, it is the intent of the City of Evansville to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

160-384: Administration

(a) **Administrator.** The administrator is responsible for administering this Article.

(b) **Powers.** As part of the administration of this Article, the administrator may:

(1) Adopt wireless regulations governing the placement and modification of wireless facilities in addition to but consistent with the requirements of this Article, including regulations governing collocation, the resolution of conflicting applications for placement of wireless facilities, and aesthetic standards. The regulations must be published in advance of their enforcement.

(2) Interpret the provisions of the Article and the wireless regulations.

(3) Develop forms and procedures for submission of applications for wireless permits consistent with this Article.

(4) Collect any fee required by this Article.

(5) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations.

(6) Issue notices of incompleteness or requests for information in connection with any wireless permit application.

(7) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.

(8) Coordinate and consult with other City of Evansville staff, committees, and governing bodies to ensure timely action on all other required permits under Section 160-385(b)(11) of this Article.

(9) Negotiate attachment agreements for the placement of wireless equipment on governmental poles or utility poles for designated.

(10) Subject to appeal as provided in Section 160-387(e) of this Article, determine whether to grant, grant subject to conditions, or deny an application.

(11) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

160-385: Application

(a) **Format.** Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.

(b) **Content.** In order to be considered complete, an application must contain:

- (1) All information required pursuant to the wireless regulations.
- (2) A completed application cover sheet signed by an authorized representative of the applicant.
- (3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative and of all duly authorized representatives and consultants acting on behalf of the applicant with respect to the filing of the application. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless facility must also be provided.
- (4) A statement of which state or federal deadline(s) apply to the application.
- (5) A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.
- (6) A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- (7) A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.97 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.
- (8) A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.13, as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those

codes enacted solely to address imminent threats of destruction of property or injury to persons.

(9) A structural report performed by a professional engineer registered in the State of Wisconsin evidencing that the support structure on which the wireless equipment will be mounted will structurally support the equipment, or that the structure may and will be modified to meet structural requirements, in accordance with applicable codes, including the National Electric Safety Code and the National Electric Code.

(10) If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. This is not required if the support structure is a governmental pole or a utility pole for designated services, as permission will be evidenced by the executed attachment agreement referenced in Section 160-382(c).

(11) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.

(12) Payment of all required fees.

(c) **Waivers.** Requests for waivers from any requirement of this Section 160-385 shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the City of Evansville will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.

(d) **Eligible Facilities Requests.** If the applicant asserts in writing that its application is an eligible facilities request, the City of Evansville will only require the applicant to provide that information set forth in subsection (b) above to the extent reasonably related to determining whether the request meets the definition of “eligible facilities request” under 47 C.F.R. § 1.6100(b)(3). The applicant will be required to submit evidence that the application relates to an existing tower or base station that has been approved by the City of Evansville. Before and after 360-degree photo simulations must be provided with detailed specifications demonstration that the modification does not substantially change the physical dimensions of the existing approved tower or base station.

(e) **Fees.** Applicant must pay an application fee in an amount set by the common council to allow recovery of the City of Evansville’s direct costs of processing the

application, subject to the limits contained in state and federal law, including Wis. Stat. § 66.0414(3)(d), as amended.

(f) **Public Records.** Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the City of Evansville shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and the Administrator's determination that the applicant's request for confidential or proprietary treatment of the application materials is reasonable. The City of Evansville shall not be required to incur any costs to protect the application from disclosure.

160-386: General Standards

(a) **Generally.** Wireless facilities shall meet the minimum requirements set forth in this Article and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) **Regulations.** The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Article are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Article and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) Standards.

(1) Wireless facilities shall be installed and modified in a manner that:

(A) Minimizes risks to public safety;

(B) Ensures that placement of wireless equipment on existing support structures is within the tolerance of those structures;

(C) Ensures that new support structures will not be installed when the applicant has the right to place its wireless facility on an existing structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;

(D) Avoids installation or modification of a utility pole that would exceed the height limits set forth in Wis. Stat. § 66.0414(2)(e)2, as amended;

(E) Avoids placement of aboveground wireless facilities in historic districts and underground districts (except for placing equipment on or replacing pre-existing support structures, so long as the collocation or replacement reasonably conforms to the design aesthetics of the original support structure);

(F) Avoids placement of wireless facilities in residential areas when commercial or industrial areas are reasonably available;

(G) Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;

(H) Ensures that the City of Evansville bears no risk or liability as a result of the installations; and

(I) Ensures that applicant's use does not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare; inconvenience the public; interfere with the primary uses of the right-of-way; or hinder the ability of the City of Evansville or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.

(2) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(d) Standard Permit Conditions. All wireless permits, whether granted under this Article or deemed granted by operation of state or federal law, are issued subject to the following minimum conditions:

(1) **Compliance.** The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.

(2) **Construction Deadline.** The permit holder shall commence the activity authorized by the permit no later than 365 days after the permit is granted and shall pursue work on the activity until completion.

(3) **Contact Information.** The permit holder shall at all times maintain with the City of Evansville accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

(4) **Emergencies.** The City of Evansville shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

(5) **Indemnification.** The permit holder, by accepting a permit under this Article, agrees to indemnify and hold harmless the City of Evansville, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the “Indemnified Parties”) from and against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Article, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.

(6) **Adverse Impacts on Adjacent Properties.** The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.

(7) **General Maintenance.** The wireless facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

(8) **Graffiti Removal.** All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the City of Evansville.

(9) **Relocation.** At the request of the City of Evansville pursuant to Section 160-389 of this Article, the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.

(10) **Abandonment.** The permit holder shall promptly notify the City of Evansville whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section 160-390 of this Article.

(11) **Restoration.** A permit holder who removes or relocates a facility from the right-of-way or otherwise causes any damage to the right-of-way in connection with its activities under this Article must restore the right-of-way in accordance with Section 160-391 of this Article.

(12) **Record Retention.** The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the City of Evansville cannot

locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

(13) **Radio Frequency Emissions.** Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(14) **Certificate of Insurance.** A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

160-387: Application Processing and Appeal

(a) **Rejection for Incompleteness.** Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d) and Wis. Stat. § 66.0414(3)(c), as amended.

(b) **Processing Timeline.** Wireless permit applications (including applications for other permits under Section 160-385(b)(11) necessary to place or modify the facility) and appeals will be processed in conformity with the deadlines set forth in state, local, and federal law, as amended, unless the applicant and the City of Evansville agree to an extension.

(c) **Public Hearing.** Prior to the approval or denial of an application, a public hearing shall be held for public comment. The public hearing will be held at a City of Evansville plan commission meeting that allows for the issuing of a timely decision on the application pursuant to the terms of this article and pursuant to Wisconsin Statutes.

(d) **Written Decision.** In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section 160-386(d), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record. If the permit is for a small wireless facility, the applicant may cure the deficiencies identified in the written decision denying the permit and re-submit the application no later than 30 days after receipt without being required to pay an additional application fee.

(e) **Appeal to City Council.** Any person adversely affected by the decision of the Administrator may appeal that decision to the City Council, which may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. If an applicant contends

that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the documentation accompanying the appeal must include that contention and provide all evidence on which the applicant relies in support of that claim.

(f) Deadline to Appeal.

(1) Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.

(2) All other appeals not governed by Subsection(f)(1), above, must be filed within seven business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

(g) Decision Deadline. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable deadline.

160-388: Revocation

(a) **Revocation for Breach.** A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the facilities for which the permit has been revoked must be removed within 30 days of receipt of written notice from the City of Evansville. All costs incurred by the City of Evansville in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.

(b) **Failure to Obtain Permit.** Unless exempted from permitting by Section 160-382(b) of this Article, a wireless facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the City of Evansville. All costs incurred by the City of Evansville in connection with the notice, removal, and right-of-way restoration shall be paid by the entities who own or control any part of the wireless facility.

160-389: Relocation

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the City of Evansville, permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future City of Evansville use of the right-of-way; a public improvement undertaken by the City of Evansville; an economic development project in which the City of Evansville has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has

been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

160-390: Abandonment

(a) **Cessation of Use.** In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City of Evansville and do one of the following:

(1) Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Article have been lawfully assumed by another permit holder.

(2) Submit to the Administrator a proposal and instruments for dedication of the facilities to the City of Evansville. If a permit holder proceeds under this section, the City of Evansville may, at its option:

(A) Accept the dedication for all or a portion of the facilities;

(B) Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section 160-391; or

(C) Require the permit holder to post a bond or provide payment sufficient to reimburse the City of Evansville for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section 160-391.

(3) Remove its facilities from the right-of-way within one year and perform the required restoration under Section 160-391, unless the Administrator waives this requirement or provides a later deadline.

(b) **Abandoned Facilities.** Facilities of a permit holder who fails to comply with Section 160-390(9) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City of Evansville may, at its option:

(1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;

(2) take possession of the facilities; and/or

(3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

160-391: Restoration

In the event that a permit holder removes or is required to remove a wireless facility from the right-of-way under this Article (or relocate it pursuant to Section 160-389), or otherwise causes any damage to the right-of-way in connection with its

activities under this Article, the permit holder must restore the right-of-way to its prior condition in accordance with City of Evansville specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this section, the City of Evansville at its option may do such work after providing 15 days' written notice to the permit holder. In that event, the permit holder shall pay to the City of Evansville, within 30 days of billing therefor, the cost of restoring the right-of-way.

160-392: Severability

If any section, subsection, clause, phrase, or portion of this Article is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Article, which shall remain in full force and effect.

This Ordinance shall be in full force and effect upon passage and publication.

Passed and adopted this ____ day of _____, 2021.

William C. Hurtley, Mayor

Judy L. Walton, City Clerk

Introduced: 0/00/2021
Adoption: 0/00/2021
Publication: 0/00/2021

MANAGING YOUR UTILITY BILL. WE ARE HERE TO HELP.

As your local, not-for-profit utility, we are dedicated to supporting our community during difficult times. We are here to help figure out the best payment option that works for you. See below for information on bill pay assistance and payment plans.

Home Energy Assistance Program

The Wisconsin Home Energy Assistance Program (WHEAP) provides assistance for heating costs, electric costs, and energy crisis situations. Through Evansville Water & Light's participation in this program, you may be eligible for bill pay assistance. **Eligibility is based on the last month of income, so if your income has been impacted by COVID-19, consider applying today.**

Visit homeenergyplus.wi.gov or call **(608) 363-9200** for eligibility and program details.

Eligibility for WHEAP benefits is based on a number of factors. However, if the gross income for your household is less than the amount shown below, you may be eligible to receive assistance.

FAMILY SIZE							
1	2	3	4	5	6	7	8
\$ 2,490.08	\$ 3,256.33	\$ 4,022.50	\$ 4,788.67	\$ 5,554.83	\$ 6,321.00	\$ 6,464.67	\$ 6,608.33
GROSS INCOME (ONE MONTH)							



Deferred Payment Arrangement

To avoid disconnect, call us as soon as possible. We'll work with you to pay past due bills in manageable installments. Once your balance is paid in full, we can enroll you in the optional Budget Payment Plan, to help manage your expenses moving forward.

CONTACT US TODAY TO LEARN MORE

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Water & Light
A Public Power Community Est. 1907

At Evansville Water & Light, we join forces with other local not-for-profit utilities through WPPI Energy to share resources and lower costs.

ci.evansville.wi.gov (608) 882-2266

Shared strength through  WPPI Energy

ESR Report by: Amy Wanek

- Key Accounts have been contacted for 1st quarter. I shared with them Focus offerings or WPPI offerings where it made sense.
- Contacted Larson Acres specifically regarding some discussion for a biodigester and offered thoughts and potential incentives but have not gotten a reply.
- Evansville HS has submitted an Office of Energy Innovation grant! The application was put together by the school and Upper 90 and covers LED lighting and will require the students to play an active role in the project.
- In conjunction with the new partnership with the HS and Upper 90, we are looking at potentially enrolling the HS in WPPI's Energy Management for Schools program that can lead to additional funding. Will be having a meeting next week to discuss.